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Subject: Redland City Council 2020-21 W4Q Submission
Date: Friday, 12 June 2020 11:25:00 AM
Attachments: [20200612 Redland City Council 2020-21 COVID Works for Queensland List of...xlsx](#)
[Additional Issues Response.pdf](#)
[image001.png](#)
[image002.png](#)

Hi,

Please see attached for Redland City Council's submission under the COVID W4Q Program.

Please feel free to call or email me directly if there are any questions regarding our submission.

As requested, please see our statement below regarding SMBI works:

Redlands Coast is a city of islands, each with its own distinctive community and challenges. In particular the Southern Moreton Bay Islands (SMBIs) have significant socio-economic challenges not dissimilar to many regional and remote areas of Queensland. For example while the Regional Queensland unemployment rate in the June 2018 quarter was 6.1%, the rate on our Southern Moreton Bay Islands was 16.5% for the same period, while the youth unemployment rate was 32.2%. (ABS Census 2016). In addition, the Southern Moreton Bay Islands have a far higher rate of aged residents and residents requiring support due to a permanent disability.

The projects identified in this funding application have been selected based on the short timeframe set to identify and deliver the projects. While the identified projects are based on the mainland, securing funding for their delivery will allow Council to reprioritise other funding within our budget to benefit the SMBI communities in responding to the above mentioned challenges, in turn driving economic and social opportunity for these island communities.

Kindest Regards,

Christine Cartwright

External Funding Manager

Corporate Strategy and Performance

Redland City Council

E funding@redland.qld.gov.au

P 07 3829 8817

M 



I acknowledge the traditional custodians of the lands and seas where I work. I pay my respects to Elders, past, present and future.



Redlands Coast Eastern Hinterland Experience:

1. *Does the project involve purchase of an asset or works to an asset that will not be owned and/or controlled by the applicant?*
No
2. *Does the project involve purchasing or leasing of plant, vehicles and equipment?*
No
3. *Does the project involve purchase of land?*
No
4. *Does the project involve works constructed on land not owned or controlled by the applicant, except where it has permission to construct on Queensland Government-owned land?*
No
5. *Does the project involve works requiring complex development or other statutory applications that would delay delivery of the project by 30 June 2021?*
No
6. *Are the proposed works for planning and design purposes only?*
No

2020-21 COVID Works for Queensland (W4Q) List of Projects

Council name	Redland City Council	Council's total approved W4Q allocation	Total Variance should be 'zero' Council allocation - Total project budget)
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Project Details				Job Impacts			Project location									
Project title	Project Category 'select from drop down'	Project Type 'select from drop down'	Project description (including scope of works)	Project Estimated Start Date (must not be before 6 July 2020)	Project Estimated End Date (must be delivered by 30 June 2021)	W4Q project budget (excluding GST)	Estimated jobs supported	Estimated jobs created	TOTAL Estimated Jobs	Address	Suburb or Locality	Postcode	Latitude	Longitude	State Electorate	Federal Electorate
									0.00							
Redlands Coast Eastern Hinterland Experience	Economic_Development	Upgrades	<p>The Redlands Coast Eastern Hinterland Experience will provide over 20km of multiuse fire trails, mountain biking downhill tracks, shared used trails and visitor infrastructure, connecting neighbouring trail networks, accommodation and businesses, providing a unique regional destination with recreation and tourism value.</p> <p>The project will enhance visitor access to natural areas while protecting biodiversity in the region, increasing utilisation and encouraging market growth for day trips and overnight stays, providing critical uplift to the local tourism and hospitality industries.</p> <p>The scope of works will include:</p> <ul style="list-style-type: none"> New trails – approximately 13,451m; Existing trail rework to meet level of service – approximately 7,351m; Viewing and interpretation deck at top of Mount Cotton; Summit rest point (trail hub at commencement of downhill trails); Trailhead car park and amenities at Schoek Road; Wayfinding signage; and Other boundary works. <p>All detailed designs for infrastructure requirements are complete - 'shovel ready', and Council is prepared to commence works post State approval for the W4Q allocation.</p>	1/08/2020	28/05/2021	\$2,050,000.00	18.00	3.00	21.00	807-825 West Mount Cotton Road, Mount Cotton QLD 4165 605-769 West Mount Cotton Road, Mount Cotton QLD 4165	Mount Cotton	4165	-27.590263	153.222522	Springwood	Bowman
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Right to Information
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By submission of this form, I certify that:

- I am authorised by council to submit this list of projects
- I have read the 2020-21 W4Q Program guidelines
- I understand that submission of list of projects does not guarantee funding approval for either all or part of the funding being sought
- the details in this list of projects, are true and represent a delivery commitment that council is obligated to fulfil if funded
- council will deliver the project/s by 30 June 2021 and in accordance with relevant guideline requirements
- the project/s will comply with all relevant Acts, laws, regulations, state or Commonwealth policies and industrial agreements and awards.



Authorised officer		Contact officer	
Name	Christine Cartwright	Name	Christine Cartwright
Phone number	3829 8817	Phone number	3829 8817
Email	christine.cartwright@redland.qld.gov.au	Email	christine.cartwright@redland.qld.gov.au

Right to Information Release



Redland
CITY COUNCIL

INVITATION TO TENDER

Tender: PDG-43700-1

TRAILHEAD FACILITY – REDLANDS COAST EASTERN HINTERLAND EXPERIENCE

Closing Date: Friday 23 October 2020

Closing Time: 2.00PM (QLD STD TIME)

Redland City Council

ABN 86 058 929 428

Cnr Bloomfield & Middle Streets Cleveland Q 4163

PO Box 21 Cleveland Q 4163 Australia

Telephone: (07) 3829 8999 Facsimile: (07) 3829 8765 Email: redland@redland.qld.gov.au

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Document Status					
Rev No.	Author	Reviewers	Approved for Issue		
			Name	Signature	Date
001	S. Taylor	G. Briese	-	-	21/09/2020
002	S. Taylor	G. Finlay	-	-	22/09/2020
Final for Tender	S. Taylor	T. Justice	A. Burrows		23/09/2020

IMPORTANT NOTE TO TENDERERS

THIS INVITATION TO TENDER [ITT] DOCUMENT COMPRISES TWO (2) SECTIONS A and B AS FOLLOWS:

SECTION A: Invitation To Tender

Is to be read, understood and retained by the Tenderer. It is not to be submitted at closing time as part of the Tender offer.

- PART 1 Notice to Tenderers**
- PART 2 Conditions of Tender**
- PART 3 Conditions of Contract**
- PART 4 Special Conditions of Contract**
- PART 5 Project Brief**

SECTION B: Tender Deliverable Attachments

Tender Deliverable Attachments must be completed in full, signed and lodged at the closing time and shall be known from here on in as the Tenderer's offer.

Should a Tenderer fail to complete these Tender Deliverable Attachments in full Council reserve the right at its sole and absolute discretion to reject the offer as Non-Conforming.

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**THIS SECTION A – PARTS 1 to 5 IS TO BE RETAINED BY THE TENDERER AND NOT
LODGED AT CLOSING TIME.**

1 NOTICE TO TENDERERS

The Notice to Tenderers gives a brief background to the tendering processes and objectives of this Invitation to Tender (“ITT”). As such, it is only a guide and is not to form part of any contract or agreement between the Redland City Council (“Council”) or any person, firm or corporation.

1.1 DESCRIPTION OF GOODS AND/OR SERVICES TO BE PROVIDED

Council requires a main/head Contractor for the construction of the Trailhead Facility, viewing platform and associated works at the Eastern Escarpment Conservation Area, Mount Cotton, Redland City.

The work to be performed under this Contract comprises of the provision of the all materials, plant/equipment, labour and the performance of all operations necessary for the supply/delivery, installation or construction, supervision and certification for the proposed works/services, which include but are not limited to:

- Detailed dilapidation survey report (pre and post works);
- Lodgement of applicable applications;
- Dismantle and remove indicated existing fence for reuse;
- Removal of indicated existing boulders, rhino gate, headwalls and stormwater pipes;
- Removal of indicated trees and stumps (mulch and reuse on site);
- Clearing and grubbing;
- Design, supply and electrical installation from Mains supply (option 1) OR Design, supply and electrical installation from solar panels (option 2);
- Supply and installation of field inlet pits, stormwater pipes and subsurface drainage;
- Construction of parking and drop off area with asphalt surface;
- Supply and installation of composting public amenity including ramps;
- Construction of concrete footpath and coloured bitumen areas;
- Supply and installation of retaining wall;
- Supply and installation of water tank including pump, filtration unit, water service to drinking fountain and horse trough;
- Supply and installation of shelter including seat;
- Supply and installation viewing platform;
- Supply and installation of ancillary works (signage, bollards, fencing, gates, horse trough and tap, seat);
- Associated earthworks and landscaping (where indicated);
- Any landside or landscaping works that may be required as a result of the works;
- Final RPEQ certified ‘As Constructed’ (ADAC) drawings for amenities and shelter (with Form 16);
- Electrical certification, final ‘As Constructed’ electrical drawing(s); and
- Provision of Quality, Work Place Health & Safety Construction, Traffic and Environmental Management Plans.

All works are to be carried out as per the ‘For Construction’ drawings – Option 1 Energex Electrical Mains Connection (Appendix A), ‘For Construction’ drawings – Option 2 Solar Power (Appendix B), RCC Safety in Design Report and Risk Register (Appendix C) and other appendices (refer Appendices A to I).

Notes:

- 1 Practical completion for this project (on-site) is by Friday, 26 March 2021.
- 2 There are 2 options for Electrical Connection. Appendix A contains the full set of ‘For Construction Drawings’ including Energex Electrical Mains Connection (Option 1). Appendix B contains ‘For Construction Drawings’ Solar Power which contains just the drawings applicable to the solar power

connection only. Tenderers are to consider and price both options advising the advantages and disadvantages of each option. Council will then choose one option only for the electrical connection component.

1.2 TENDER DOCUMENT FEE

A fee is not applicable for electronic copies. No hard copies will be provided.

1.3 STRUCTURE OF THIS INVITATION TO TENDER

This Invitation to Tender is comprised of the following parts:

Section A: **Part 1: Notice To Tenderers**

Part 2: Conditions of Tender

This Part contains the instructions, conditions and guidelines to be followed in submitting Tenders including the criteria to be used in the evaluation of Tenders.

Part 3: Conditions of Contract

This Part contains the terms and conditions of the Contract for the provision of the goods and/or services provided by the successful Tenderer. This Part 3 will form part of any Contract that may be entered into from this ITT.

Part 4: Special Conditions of Contract

This Part contains any Special Conditions of the Contract that may apply under AS2124-1992. Any changes applicable in that instance will be reflected within Annexure Part B of AS2124-1992 within the specific Contract. This Part 4 will form part of any Contract that may be entered into from this ITT.

Part 5: Project Brief

Sets out Council's requirements for the provision of the trailhead facility and associated works. This Part 5 will form part of any Contract that may be entered into from this ITT.

Section B: **Tender Deliverable Attachments**

The Tender Deliverable Attachments specify the information Tenderers are required to provide with their Tenders in order for Council to assess and evaluate the tenders. Tenderers are advised and must note the criticality of completing the Tender Deliverable Attachments in full.

This Section B Tender Deliverable Attachments as completed by the Tenderer will form part of any Contract that may be entered into from this ITT.

Should a Tenderer fail to provide the Tender Deliverable Attachments completed in full may render their Tender non-conforming and may further result in their Tender being ineligible for further consideration and rejected at the sole and absolute discretion of Council.

1.4 COMMERCIAL APPROACH

Tenders will be initially evaluated to determine whether they comply with the requirements of this ITT. Tenderers must note that under Clause 2.9.6 of the Conditions of Tender, the Council has the discretion to reject non-conforming Tenders.

Those Tenders that pass initial evaluation will be assessed according to the evaluation criteria and in accordance with the other conditions of Tender.

Tenderers must note that the Council intend to award the Contract to the Tenderer whose Tender is considered to be most advantageous and best value for money to Council. Therefore, whilst cost is an important consideration, it is only part of the evaluation criteria.

1.5 INFORMATION SUPPLIED BY THE COUNCIL

The Council will, to the maximum extent possible, supply Tenderers with as much relevant information as possible in order to allow Tenderers to develop a response to this ITT which meets the Council's requirements.

However, Tenderers must note the provisions of Clause 2.7.8 of the Conditions of Tender which state that Tenderers must make their own enquiries and inspections to satisfy themselves of the information required to submit their Tenders.

1.6 DISCLOSURE OF INFORMATION

In an assessment of any offer made under the *Right to Information Act 2009 (Qld)* any information endorsed "in confidence" by an offerer/tenderer will be assessed for non-disclosure in accordance with the terms of the legislation. Information will not be disclosed unless there is legislative authority to do so.

1.7 PRIVACY STATEMENT

Council is authorised to collect your personal information under the *Local Government Act 2009* for the purpose of carrying out Council's statutory obligations and duties. In addition, Council intends to use the personal information you have provided regarding your business for Council business including promotional, marketing and research for procurement and economic development activities. Your business details may be released to members of the public and third parties through Council's website or through referrals.

In accordance with the *Electronic Transactions (Queensland) Act 2001*, Council may provide information and notices, such as procurement, tender and contract notices to you by electronic communication. By registering your interest in this tender your consent to this form of contact is taken to be given. If you do not wish your details to be used for any one or more of the above purposes, you should advise Council in writing.

2 CONDITIONS OF TENDER

2.1 INTERPRETATION

In these Conditions of Tender, unless a contrary intention is apparent:

- (a) “**Contract**” means the contract between the Council and the successful Tenderer on similar terms to the Contract contained in Parts 3 and 4 of this Invitation to Tender;
- (b) “**Contractor**” means a person or any other body (whether corporate or otherwise) providing the goods and/or services pursuant to the Contract;
- (c) “**Council**” means the Redland City Council, an elected body that is responsible for the good rule and local government of a part of Queensland under the *Local Government Act 2009*;
- (d) “**Council Contact Officer**” means the person or persons specified in Clause 2.9.1 of these Conditions of Tender or such other person as the Council may from time to time determine;
- (e) “**Critical Impact**” means any item and or clause that Council at its sole and absolute discretion deems essential to occur in order to successfully meet the project requirements;
- (f) “**Dismissed Employee**” means any previous employee, staff or contractor of the Council who was dismissed as a result of disciplinary action;
- (g) “**Goods/Services**” means the materials/goods and/or services as specified in Council’s documents (including any variation to such materials/goods/services, documentation such as testing certificates and safety data sheets “SDS” that are applicable to each item or type of goods and testing certificates);
- (h) “**GST**” means the goods and services tax payable under the GST laws;
- (i) “**GST laws**” has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;
- (j) “**Intellectual Property Rights**” means any rights in respect of or in connection with any confidential, information, copyright, patents, design rights, reports, drawings, specification, or eligible layout rights and includes any right to apply for registration of such intellectual property rights;
- (k) “**Invitation to Tender**” or “**ITT**” means this document and all of its Parts inviting Tenderers to offer to meet the Council’s requirements by submitting a Tender in accordance with the requirements of these Conditions of Tender;
- (l) “**New Tax System changes**” has the same meaning given in section 75AT of the *Trade Practices Act 1974* of the Commonwealth;
- (m) “**Non-conforming Tender**” is a tender which does not comply with the requirements of or contains provisions not required or allowed by the Tender Documents;
- (n) “**Site**” means Lot 1 (SP200199) 605-679 West Mount Cotton Road, Mount Cotton and Lot 8 (SP243919) 240D Mount View Road, Mount Cotton;
- (o) “**Specification**” means the Project Brief, Specification, or Technical Specification as contained in Part 5 of this Invitation To Tender;
- (p) “**Statement of Non-Compliance**” means the Statement of Non-Compliance in the format specified by Clause 2.7.9 of these Conditions of Tender;

- (q) “**Tender**” means the Tenderer’s response to this Invitation to Tender;
- (r) “**Tender Box**” means the tender box specified in Clause 2.8 of these Conditions of Tender;
- (s) “**Tender Closing Time**” means the date and time specified in Clause 2.8.1 of these Conditions of Tender;
- (t) “**Tender Deliverable Attachments**” means the attachments to these Conditions of Tender which must be completed in accordance with these Conditions;
- (u) “**Tender Documents**” means:
- (i) The Conditions of Tender;
 - (ii) The General Conditions of Contract as amended by the Special Conditions of Contract;
 - (iii) Council’s Project Brief; and
 - (iv) Other documents as are issued and/or referred to by the Council for the purpose of tendering.
- (v) “**Tenderer**” means a person, partnership or any other body (whether corporate or otherwise) who submits a Tender in accordance with this Invitation to Tender;
- (w) “**Validity Period**” means the time period during which the Council may accept a Tender.
- (x) “**Works**” means the whole of the work to be executed in accordance with the Tender documents.

2.1.1 Inconsistency of Subject or Context

Subject to any inconsistency of subject or context, the following rules of construction shall be used in the interpretation of these Conditions of Tender:

- (a) a cross reference to a clause number is a reference to a clause of these Conditions of Tender and includes all of its subclauses;
- (b) words importing the singular include the plural (and vice versa) and words importing a gender include any other gender;
- (c) in the event of any inconsistency between these Conditions of Tender and the General Conditions in the Contract contained in Part 3 of this ITT, the General Conditions of Contract will take precedence;
- (d) unless a contrary intention is indicated, Part 4, Part 5 and Section B Tender Deliverable Attachments of the ITT shall be interpreted as stated in the draft General Conditions of Contract contained in Part 3.

2.2 PRELIMINARIES

2.2.1 Clarification prior to Tender Closing Time

Tenderers seeking clarification of any of the requirements of this ITT prior to the Tender Closing date/time may only do so in writing and by lodging their clarification on the online forum no later than **two (2) business days prior** to the closing date specified in Clause 2.8 of these Conditions of Tender.

Note:

- Only **written** instructions, clarification, and or directions from Council (posted on the Queensland Government QTender facility) shall be considered as legally binding; and

- Any and all oral instructions, clarification, and or directions from Council including but not limited to silence by Council is considered **invalid** and **shall not** form part of any subsequent Contract that may be entered into.

2.2.2 Queries by Tenderer

If any Tenderer locates any error or omission in the ITT or has any doubt as to the meaning of any part of the ITT, the Tenderer must seek clarification as described in Clause 2.2.1 of these Conditions of Tender.

2.2.3 Amendment or addition to the Invitation to Tender

The Council reserves the right to issue amendments or additions to this ITT at any time before the Tender Closing Time. All Tenderers will be notified of any such amendments or additions.

2.3 SITE INSPECTION

A Site Inspection is considered mandatory for this project. An inspection of the Site will be held on **Friday 9 October 2020 (commencing 10am sharp)** at the Trailhead 770 West Mount Cotton Road, Mount Cotton (opposite Schoeck Road).

The group will then proceed together to the Viewing Platform, 240D West Mount Cotton Road (turn into Holzapfel Road and left into Billiau Road). This is gated access. Please wait until RCC Officers arrive.

The road to the Viewing Platform is very steep in places and there is limited parking and turnaround facilities at the top. Please ensure you wear suitable shoes as the track is steep and slippery in places.

Please ensure PPE (long sleeved shirt, hi-vis clothing and steel capped boots) are worn to the site inspection in order to gain access.

Please confirm your attendance by emailing pdgprocurement@redland.qld.gov.au, stating "PDG-43700-1 RSVP" by **Thursday 8 October 2020 (2pm)**.

Tenders will only be accepted from those Tenderers represented at the site inspection.

2.4 PART 3 – FINANCIAL SUSTAINABILITY AND ACCOUNTABILITY OF THE LOCAL GOVERNMENT ACT 2009

The following apply to this Invitation to Tender.

- (a) Sub-section 104 Financial management systems of the *Local Government Act 2009 Part 3 Financial planning and accountability*;
- (b) Sub-sections 224, 225, 226, 228 of *Chapter 6 Contracting, Part 3 Default Contracting procedures* of the *Local Government Regulation 2012*; and
- (c) Sub-section 237 of *Chapter 6, Part 4 Contracting Publishing details of particular contracts* of the *Local Government Regulation 2012*.

2.5 NO LIABILITY FOR VIRUSES

Tenderers must note that when obtaining and or receiving correspondence and or notices in relation to this Tender they are doing so at their own risk and are accepting the entire risk of virus transmission. Council will not provide any guarantee (whether express or implied) in relation to the issue of electronic data and will not be held responsible for any loss or damage (including consequential loss or damage) which may be suffered by any Tenderers.

2.6 NO LIABILITY FOR ELECTRONIC DOCUMENTATION TRANSMISSION

Tenderers must note that when obtaining ITT documentation and or receiving correspondence and or notices in an electronic format they are doing so at their own risk and are accepting the entire risk including the risk of missing data and or documentation. Council has not and will not provide any guarantee (whether express or implied) in relation to the issue of electronic data and will not be held responsible for any loss or damage (including consequential loss or damage) which may be suffered by any Tenderers.

2.7 TENDER REQUIREMENTS

2.7.1 Validity Period of Tender

Each Tenderer shall for each Tender it submits, maintain a Validity Period of 90 (Ninety) days from the Tender Closing Time.

Where the Council seeks an extension of the Validity Period, a request in writing will be forwarded to the Tenderer. The Tenderer shall be required to respond in writing to extend the Validity Period. Failure to respond will result in the Tender not being considered further.

2.7.2 Tender Response Requirements

In their Tenders, Tenderers must provide:

- (a) all information required by the attachments contained in Section B Tender Deliverable Attachments;
- (b) Statement of Non-Compliance where they do not comply with or agree with all of the clauses or conditions in the Project Brief (Part 5), the draft General Conditions of Contract (Part 3), and/or where applicable the Special Conditions of Contract (Part 4);
- (c) details of any special conditions pertaining to the Tender;
- (d) detail of how the Tender meets the requirements of the Specifications and the evaluation criteria; and
- (e) any other information required by this Invitation to Tender.

Failure to provide this information may render a Tender non-conforming and Council may exercise its rights under Clause 2.9.6 of these Conditions of Tender.

2.7.3 Format of Tender

The Tender shall be prepared in accordance with the following requirements:

- (a) **Price Basis** - All prices quoted will be in Australian currency and fixed for the duration of the Contract.
- (b) **Taxes** - All prices must be submitted on the basis of the Australian tax legislation as of the date of this ITT. In relation to the Goods and Services Tax, Tenderers must note Clause 2.7.7 of these Conditions of Tender.
- (c) **Language of Tenders** - The Tender must be in English. Further, any measurements used must be expressed in units legally recognised in Australia.
- (d) **Copies of Tender** - Not applicable for electronic lodgement.

All documents (except drawings) shall be in Microsoft Word version 2010 (or earlier) format or Adobe PDF Format. Drawings are to be in AutoCAD 2010 format unless otherwise specified

2.7.4 Part Offers

Council will not accept a part offer. Partnership arrangements between the main/head Contractor and subcontractors and/or subconsultants are acceptable.

2.7.5 Alternative Offers

Council will not accept alternative offers.

2.7.6 Joint Offers

Council will not accept a joint offer. Partnership arrangements between head Contractor and subcontractors are acceptable.

2.7.7 Goods and Services Tax (“GST”)

In completing the relevant Section B Tender Deliverable Attachment to these Conditions of Tender, Tenderers must clearly specify in relation to each price, rate, fee or charge applicable to the tendered goods and/or services:

- (a) the price, rate, fee or charge (exclusive of GST);
- (b) the amount of GST applicable; and
- (c) the price, rate, fee or charge (inclusive of GST).

Tenderers should also note the requirements of the Contract in relation to the provision of valid tax invoices.

2.7.8 Tenderers to Inform Themselves

By responding to this ITT, a Tenderer will be deemed to have acknowledged and agreed that it has done so on the basis that it has:

- (a) the necessary skills, knowledge and experience to provide the goods and/or services sought;
- (b) in preparing its Tender:
 - (i) fully examined the ITT (including all documents the ITT refers to) and any other information made available by the Council to Tenderer for the purpose of this ITT; and
 - (ii) made its own reasonable enquiries (including inspections) to fully inform itself of all the risks, contingencies and other circumstances which may impact on the Tender and the proper performance of the Contractors obligations under the Contract; and
- (c) has not relied upon any warranty or representation (whether oral or in writing or by conduct) made on behalf of the Council **except** where such warranty or representation is contained in this ITT or made through the processes specified by these Conditions of Tender; and
- (d) satisfied itself as to the accuracy and sufficiency of the Tender (including the tendered prices) to achieve the due and proper performance and completion of the Contractor’s obligations under the Contract.

2.7.9 Statement of Non-Compliance

The Tenderer must provide a Statement of Non-Compliance with the Tender. The purpose of this Statement is to highlight those clauses in the Project Brief (Part 5), the draft General Conditions of Contract (Part 3), Special Conditions of Contract (Part 4) that the Tenderer does not accept or will not be able to fully comply with.

The Statement of Non-Compliance must be in the format and completed in accordance with the instructions specified in Attachment B of the Tender Deliverable Attachments

In completing the Statement of Non-Compliance, Tenderers must note that where the Statement does not indicate which clauses or conditions of either the Specifications or the draft Contract that the Tenderer:

- (a) does not accept; or
- (b) will not be able to fully comply with;

the Tenderer will be deemed by the Council to have fully complied with and accepted all those clauses and conditions which are not included in the Statement of Non-Compliance.

For the purposes of these Conditions of Tender, such full compliance means:

- (i) in the case of a clause which is of an informative nature only - that the clause has been read and understood;
- (ii) in the case of a clause which imposes a contractual conditions - that the condition is agreed to in a strict and literal sense; and
- (iii) in the case of a clause which specifies a characteristic or performance standard to be met by the goods and/or services to be provided - that the offer is to provide or exceed the specified characteristic or standard.

Council reserve the right at its sole and absolute discretion to reject tenders from further evaluation should they be non or partially compliant with those items and or clauses in the Project Brief (Part 5), the draft General Conditions of Contract (Part 3), Special Conditions of Contract (Part 4) that may be considered to have a critical impact on the tendered work.

2.7.10 Ownership of Tender Documentation

- (a) By submitting a Tender, the Tenderer:
 - (i) licenses the Council to reproduce for its own purposes whatsoever, the whole or any portion of the Tender notwithstanding any copyright or other Intellectual Property Rights that may subsist in those documents; and
 - (ii) acknowledges that the Tender and all other documentation submitted with it shall not be returned to the Tenderer.
- (b) Council acknowledges that, subject to paragraph (a) above, the Intellectual Property Rights in the Tender documentation remains vested in the Tenderer concerned.

2.7.11 Sub-contractors

Where a Tenderer proposes to sub-contract any of its obligations under the Contract, the Tenderer must state the name and address of each sub-contractor and the extent of the work to be carried out by the sub-contractor. In addition, the Tenderer must provide information about each sub-contractor as required within Section B 'Tender Deliverable Attachments'.

2.7.12 Changes to Tenders

Pursuant to *Chapter 6 Part 3 Default contracting procedures Contracting, Section 177 (7) in Part 3 (Default contracting procedures), sub-section 228 Tender process (7) (a) and (b) of the Local Government Regulation 2012*, before making a decision on the Tenders, Council may invite all the persons who have submitted a Tender to change their Tender to take account of a change in the Tender Specifications.

2.8 LODGEMENT OF TENDERS

2.8.1 Tender Closing Date and Time

Tender is to be lodged on or before the Tender Closing Time of **2.00pm** (Queensland Standard Time) on **Friday 23 October 2020** in accordance with these Conditions of Tender.

2.8.2 Method of Lodgement of Tender

Tenderers are required to submit their tenders electronically online using the [Qld QTenders System](#) by the closing date and time specified in Clause 2.8.1 above.

By uploading tender submissions electronically using the [Qld QTenders System](#), it is deemed that tenderers have read, understood and accepted the terms and conditions of tender.

- (a) Tenderers must allow themselves sufficient time to upload their submissions as the electronic tender box closes strictly on the day and time specified in Clause 2.8.1 above. Please commence uploading at least 60 minutes before closing time;
- (b) A guide on how to upload documents to this site is available online on QTenders;
- (c) Use file names with alpha-numeric characters (letters and numbers and less than 250 characters);
- (d) Total file size of any document or zipped file must be kept below 15MB. Zip compressed files only (not .zipx, .rar, .7z).
- (e) File ideally to be uploaded as one (1) single Adobe Portable Document Format (.pdf) if under 15MB, however if total combined document/file size is greater then:

Each file should be clearly cross-referenced to Section B Tender Deliverable Attachments e.g. scan each "Section B Tender Deliverable Attachment" with supporting documents directly behind the relevant Tender Deliverable Attachment and saved separately; and
- (f) Any drawings to be in A3 format. Cross-referenced to the relevant Section B Tender Deliverable Attachment and uploaded as a separate file (if required).

The tender submission should:

- (a) be clearly marked clearly marked "**PDG-43700-1, name of the document and Tenderers company name**;

Any difficulties uploading files should be reported urgently to Queensland Government QTenders helpdesk on (07) 3215 3699 (Mon to Fri 8am - 5pm).

NOTE: Council reserves the right at its sole and absolute discretion to reject tenders that are not lodged in accordance with the above Clause 2.8.1 and Clause 2.8.2 sub items (a) and (b).

2.8.3 Method of Lodgement of Samples

Not Applicable.

2.8.4 Electronic Transmission of Tenders

Electronic Transmission of Tenders must be lodged electronically online by the closing date and time as specified in Clause 2.8.1 and Clause 2.8.2 above.

2.8.5 Late Tenders

QTenders facility does not accommodate for lodgement of late tender submissions.

A late Tender will only be admitted into evaluation if the Council (in its sole and absolute discretion) makes a decision to do so.

Please ensure full compliance with Clause 2.8.1 and Clause 2.8.2.

2.9 TENDER PROCESS

2.9.1 Council Contact Officer

After the Tender Closing Time, all correspondence and communications relating to this ITT shall be in writing and directed to:

Stefanie Taylor
Tender & Contracts Officer
Redland City Council (Project Delivery Group – Tender and Contracts Unit)
PO Box 21
CLEVELAND QLD 4163

Email: pdgprocurement@redland.qld.gov.au

2.9.2 No obligation to enter into a contract

By issuing this ITT, Council is under no obligation (whether equitable or legal) to proceed either in whole or in part with the procurement of the goods and/or services to which the ITT relates. Council is not committed financially, contractually or in any other way to any person who may receive the ITT or submit a Tender.

2.9.3 Variation to the ITT

Council reserves the right to:

- (a) vary or amend the terms and conditions of this ITT at any time before the Tender Closing Time and shall only do so by giving Tenderers timely written notice of such variations or amendment; and
- (b) suspend, terminate or abandon this ITT at any time during or after the Tender Closing Time.

2.9.4 Opening of Tenders

For security and safety reasons Tenders will only be opened in the confined area of the Council's in the presence of two (2) of Council's authorised representatives. Tenderers will not be permitted to be present at the opening of the Tenders.

Details of company names and business detail of Tenders received will be recorded at the time of opening. 'Commercial in Confidence' information including tendered prices and proposed solutions will not be publicly released.

For security and safety reasons Tenders will only be opened in the confined area of the Council premises in the presence of Council's authorised representatives. Tenderers will not be permitted to be present at the opening of the Tenders.

2.9.5 Indicative Timetable

The proposed timetable for the selection process is set out below. This timetable is provided as a guide only and Council is under no obligation to meet the time frames set out below. Council may adjust the stated dates in its absolute discretion or to not proceed with the selection process at all.

Event	Date
Release of Tender	30/09/2020
Site Visits (Mandatory)	9/10/2020
Close of ITT	23/10/2020
Evaluation	26/10/2020
Contract award	11/12/2020

2.9.6 Non Conforming Tenders

Tenders may be classified as non-conforming and excluded from further consideration if:

- (a) A Tender does not comply with the full requirements of this ITT; and/or
- (b) A Tender proposes to engage a Dismissed Employee in the delivery of the Services.

The decisions as to whether a Tender is non-conforming or not and whether a non-conforming Tender is to be accepted or excluded from further consideration are matters that are within Council's sole and absolute discretion.

2.9.7 Errors in Tenders

- (a) Council may exclude from consideration, any Tender in which prices are not clearly and legibly stated.
- (b) Where the Tender is on a lump sum basis and an error has been made in the priced bill of quantities to arrive at the tendered lump sum, the Tenderer shall without undue delay make all such alterations in and to the priced bill of quantities as the Council considers necessary for such purpose.

If the Tenderer fails to make the alterations as directed by the Council and/or fails to do so within the time set by the Council, the Tender shall be deemed to have been withdrawn by the Tenderer.

- (a) Where the prices tendered are on a schedule of rates basis and an error has been made in the calculation or summation of the prices, the Tenderer shall be bound by the rates tendered and the Contract sum/total stated in the Tender shall, subject to the agreement of the Tenderer, be altered by the Council to reflect the correct calculation or summation of the prices.

If the Tenderer fails or refuses to agree to the alteration of the Contract sum/total, the Tender shall be deemed to have been withdrawn by the Tenderer.

- (b) If a Tenderer becomes aware of any other discrepancy, error or omission in its Tender not referred to or covered in paragraphs (b) and (c) above) and wishes to lodge a correction or additional information, it can **only** do so if:
 - (i) the correction or additional information is provided to the Council without undue delay; and
 - (ii) the correction or additional information is provided to the Council in writing and is initialled by the Tenderer; and
 - (iii) the Council first agrees to the provision of such correction or additional information.

2.9.8 Clarification of Tenders

At any stage during the evaluation phase, the Council may request:

- (a) clarification of any Tender in respect of specific issues contained in that Tender; or
- (b) interviews with Tenderers; or
- (c) tenderers to provide additional information in writing; or

- (d) a site inspection or a presentation of the Tenderers facilities and equipment to clarify any part of the Tender and to examine the capabilities of such facilities and equipment. The Tenderer shall not unreasonably deny such request.

Where requested to clarify any matter contained in the Tender or to provide additional information, Tenderers shall provide such clarification and/or information in writing at the time and place stipulated by Council. Failure to comply with any such request may result in the Tender being excluded from further consideration.

In the event that any clarification, additional information, presentation or site inspection is requested from a Tenderer by the Council, the Tenderer shall provide such clarification, additional information, presentation or site inspection at no cost to the Council whatsoever.

2.9.9 Conduct of Tenderer

Any Tenderer:

- (a) found to have offered a bribe, gratuity, bonus, discount or any sort of enticement to any Councillor or employee of the Council; or
- (b) discusses the Tender with any Councillor or employee of the Council (with the exception of the Council's Contact Officer) at any time prior to the awarding of the Contract to the successful Tenderer;

may have their Tender rejected by Council.

2.9.10 Business Ethics

Council aims to achieve the highest standards of integrity and accountability when doing business, working with the community and delivering services with the same standards expected from our business clients, suppliers and service providers. This is in line with the Queensland Government's *Local Government Act 2009* and the Council's Employee Code of Conduct, with a view to providing the best possible business practices and community, client and supplier outcomes.

To maintain this business ethics, respondents must:

- (a) respect these ethical obligations;
- (b) not pressure Council officers to overlook ethical obligations;
- (c) avoid collusion and unfair practices;
- (d) disclose likely conflicts of interest;
- (e) maintain confidentiality of information that is confidential;
- (f) provide accurate information; and
- (g) help deter unethical practices and/or fraud by promptly reporting your concerns.

Unethical conduct or fraud is not acceptable and should be reported to Council.

2.9.11 Tender Costs

In submitting a tender, the Tenderer will be deemed to have acknowledged and agreed that it will bear all the expenses howsoever incurred in preparing, clarifying and or negotiating it's Tender and is not entitled to seek any compensation or reimbursement of those costs from the Council.

2.10 TENDER EVALUATION

2.10.1 Evaluation Criteria

Tenderers are advised that the Council's objective in evaluating Tenders is to secure

the “**most advantageous offer**” and “**best value for money**” for Council and not necessarily the lowest price. The factors to be taken into consideration in assessing the Tenders and Tenderers include but are not limited to the following:

TENDER EVALUATION CRITERIA	
<p>MANDATORY CRITERIA Important Note: These criteria <u>must</u> be submitted for assessment as part of the Tender Evaluation process.</p>	<ul style="list-style-type: none"> • Site Inspection • Form of Tender (<i>Tender Deliverable 'A'</i>) • Compliance and Declarations (<i>Tender Deliverable 'B'</i>) <ul style="list-style-type: none"> ○ B1 Statement of Non-Compliance ○ B2 Conflict of Interest and Declaration of Previous Employment • Social Responsibility (<i>Tender Deliverable 'C'</i>) <ul style="list-style-type: none"> ○ C1 Social Benefit ○ C2 Domestic and Family Violence ○ C3 Ethical Supplier Mandate and Compliance to Workplace Laws • Insurance Details (<i>Tender Deliverable 'D'</i>) • Professional Membership, Licences and Certificates (<i>Tender Deliverable 'E'</i>) • Notice of Subcontractors and Subconsultants (<i>Tender Deliverable 'F'</i>) • Accreditation Systems and Management Plans (<i>Tender Deliverable 'K'</i>) • Contract Performance (<i>Tender Deliverable 'L'</i>) <p><i>Failure to complete and submit the above Tender Deliverable Forms will render your tender non-compliant/non-conforming</i></p>
WEIGHTED CRITERIA	
The weighted criteria will be assessed and considered as part of the Tender Evaluation process.	WEIGHTING
COMPETITIVE LOCAL BUSINESS AND INDUSTRY (<i>Tender Deliverable 'G'</i>)	15%
TENDERED SUM (<i>Tender Deliverable 'H'</i>) H1 Tendered Lump Sum H2 Bill of Quantities	25%
EXPERIENCE AND OPERATIONAL CAPABILITY (<i>Tender Deliverable 'I'</i>) I1 Company's experience and Operational Capability I2 Project Team experience	20%
PROGRAM OF WORKS/COMMISSIONING PROGRAM (<i>Tender Deliverable 'J'</i>) J1 Detailed Program of Works/Commissioning Program for all phases of the project J2 Anticipated Cash Flow Schedule	20%

ACCREDITATION SYSTEMS AND MANAGEMENT PLANS

(Tender Deliverable 'K')

K1 Quality Accreditation/Certification System [QMS] and
Quality Management Plan [QMP]

K2 Work Health & Safety Management System [WHSMS] and
Work Health and Safety Management Plan [WHSMP]

K3 Traffic Management Plan [TMP]

K4 Environmental Management Plan [EMP]

20%

2.10.2 Development of Competitive Local Business and Industry

In line with Council's Corporate Procurement policy, Council encourages the development of competitive local businesses and will endeavour to promote and support competitive local industry in its Procurement.

In addition to price, performance, quality and suitability, Council may also consider the following factors when conducting its procurement:

- (a) economic growth for the region;
- (b) readily available goods, services and support; and
- (c) the benefit to Council of contracting with local suppliers and the associated local commercial transactions that flow from that contracting.

Council acknowledges that due to its location in the South-East Queensland metropolitan area, and as a significant purchaser of goods and services from the private sector, a "local" business for certain Procurement will vary and may be business based in the South-East Queensland region, Queensland or interstate.

Further, it is accepted that local government can directly and indirectly benefit local business by procuring from a local, Queensland or interstate based supplier by utilising whole-of-government arrangements to access local and other domestic suppliers of works, goods or services. This strategy will encourage local business to compete within a wider market through the whole-of-government tendering platforms.

2.10.3 Indigenous and Social Enterprise

The purpose of this requirement is to stimulate Indigenous entrepreneurship, Social Enterprise organisations and business development by providing Indigenous Australians and Social Enterprises with more opportunities to participate in the economy.

In its submission, each Tenderer is requested to detail how it will increase its:

- (a) purchasing from Indigenous and Social Enterprises (being an organisation that is 50% or more Indigenous owned and/or Social Enterprise organisation that is operating a business); and
- (b) employment of Indigenous Australians and/or from a Social Enterprise organisation,

in the delivery of any resultant contract.

Purchases from an Indigenous and/or Social Enterprise organisation may be in the form of engagement as a sub-contractor and /or use of Indigenous and/or Social Enterprise suppliers in the Tenderers supply chain.

Tenderers are to include any relevant information regarding this requirement in their submission or as indicated in Section B Tender Deliverable Attachments.

2.10.4 Development of New and/or Innovative Solutions

- (a) **Innovation** - During the Term of this Contract, the parties may separately or together develop a solution or solutions ("**New/Innovative Solutions**") which may include situations in which:
- (i) the Contractor makes new goods and/or services available on a commercial basis and such new goods and/or services are:
 - A. a viable substitute for any of the Goods/Services; or
 - B. ancillary to or broadly related to the Goods/Services; and/or
 - (ii) either or both of the parties have developed an innovation(s) to improve value for money outcomes to the Council including but not limited to improved services outcomes for ratepayers/Council, efficiency savings and/or cost reductions.
- (b) **Development**
- (i) During the development of any New/Innovative Solutions, the Council may:
 - A. require a business case to be produced; and
 - B. consider the offer of an Additional Period (for example, where there are significant capital/other costs associated with the New/Innovative Solution).
 - (ii) If the parties wish to include any New/Innovative Solutions in this Contract from time to time, the parties shall work collaboratively to attempt to reach in-principle agreement in relation to:
 - A. any changes required to the Contract Price(s), the Specifications, the Key Performance Indicators and the reporting requirements to implement the New/Innovative Solutions;
 - B. whether the Intellectual Property Rights in the New/Innovative Solution are to vest in the Contractor, the Council or both parties jointly; and
 - C. the date on which the changes to implement the New/Innovative Solutions would take effect.
 - (iii) Each party shall bear its own costs associated with the initiation, development and implementation of any New/Innovative Solutions (irrespective of whether those New/Innovative Solutions are implemented), unless otherwise agreed in writing by the Council's Contract Authority and the Contractor's Representative on a case by case basis.
- (c) **Implementation**
- (i) New/Innovative Solutions will be binding on the parties once ("**Implementation Agreement**"):
 - A. the matters in Clause 2.10.4 have been determined by the parties; and
 - B. the implementation of the New/Innovative Solutions has been recommended by the Management Team and approved in writing by the Council's Contract Authority and the Contractor's Representative.
 - (ii) As of the date specified in the Implementation Agreement, all such New/Innovation Solutions shall be deemed to be:
 - A. Goods/Services to which this Contract applies; and
 - B. incorporated into the Schedules to this Contract (as applicable).

2.10.5 Short Listing

At any time during the evaluation process, the Council may short list more than one Tenderer. Any such shortlist:

- (a) will be based on any of the above evaluation criteria, including price; and

- (b) will be undertaken where no benefit is derived from the evaluation of all of the Tenders received.

2.10.6 Interview and Post Offer Award Negotiation

Council reserves the right at its sole and absolute discretion to conduct interviews and undertake post offer award negotiation with any or all short listed Tenderers.

Council may invite all or any of the Tenderers to give a presentation of its conforming tender during this period.

2.10.7 Financial History

Council reserves the right at its sole and absolute discretion to conduct financial background and current credit checks on any and all Tenderers.

2.10.8 Enquiries of Referees and Others

Tenderers should note that the Council may make enquiries of any person, company or organisation to ascertain the suitability of the Tender and the Tenderer. This may include, but is not limited to, the confirmation of any information and referees provided in the Tender.

2.11 FORMATION OF CONTRACT

The Contract for the supply of goods and/or services required under this ITT will be based on the draft General Conditions of Contract contained in Part 3 along with the Special Conditions of Contract in Part 4 of this ITT.

The final decision to appoint a Contractor or not will rest with the Council in its sole and absolute discretion. The Council will not be bound to accept the provision of any goods and/or services tendered by any Tenderer unless and until the execution of the Contract by the successful Tenderer.

2.12 MEDIA LIAISON

The Council will be solely responsible for all communications with all media in respect of the progress of this Invitation to Tender (including the Tender evaluation process, all negotiations and awarding of the Contract)

If the Tenderer wishes to communicate with any section of the media in respect of any of these matters, it must first obtain the written consent of the Council through the Council Contact Officer. All communication is to be in accordance with Council's Guideline GL-3072-001 Media Relations.

2.13 COUNCIL'S DELEGATE

Any act, matter or thing which is required or permitted to be performed by the Council may be performed by the Council's Contact Officer.

2.14 DEED OF GUARANTEE, UNDERTAKING AND SUBSTITUTION

Where the Tenderer is a corporation that is a subsidiary of another corporation or is a corporation that is related to another corporation, the Tenderer shall, if so requested by the Council, lodge with the Council before acceptance of the tender, a Deed of Guarantee, Undertaking and Substitution for the performance of the obligations and the discharge of the liabilities of the Contractor under the contract in the form annexed, duly executed by the Tenderer and that other corporation.

2.15 WORKPLACE HEALTH AND SAFETY (WH&S)

All employees, workers, agents, sub-contractors engaged by the Contractor to work on Council's nominated sites must comply with current and relevant Workplace health and safety standards and legislation, Redland City Council's Workplace health and safety standards, including but not limited to the WH&S policies, systems and the A-Z of health and safety standards when providing services under this contract/arrangement.

2.15.1 Uniforms and Personal Protective Equipment (PPE)

The Contractor must adhere to Council's Personal Protective Equipment (PPE) requirements. The Contractor must ensure:

- (a) all members of the Contractor's Staff are aware of all safety requirements including, but not limited to, correct protective equipment and being in full uniform at all times. Full uniform includes, as a minimum, safety shoes, broad brimmed hat, high visibility vest/shirt, long sleeves and trousers for Contractor's Staff undertaking work at Council's facilities; and
- (b) that the Contractor's Staff comply with any directions of Council's Representative in respect of their personal appearance or attire concerned with matters of health or safety, consistent with Council's Employee Code of Conduct.

2.15.2 BNG Accreditation

It is a condition precedent of any contract entered into as a result of this ITT that any contractor or its employees, workers, agents and sub-contractors engaged to perform services on Council's nominated sites must:

- (a) achieve accreditation with BNG Conserve in accordance with this Invitation to Tender. This includes payment of the associated costs for obtaining the accreditation; and
- (b) undertake a Contractor induction with BNG Conserve and sign and carry the Council Contractor Card produced; and
- (c) undertake a Site Specific Induction at all Council nominated sites prior to entering the worksite.

2.16 CONTRACT PERFORMANCE

During the course of a contract, the contract's performance will be monitored and performance reports may be made available to persons in other agencies and/or jurisdictions as appropriate.

Contract Performance Reports will be required to be undertaken by both the Council and the Supplier/Contractor under the contract.

Both parties are to ensure that representatives meet at the times and place as required by Council to discuss the Contract's performance of, and any issues arising under any formal agreement (including specified Key Performance Indicators).



Redland
CITY COUNCIL

SECTION A - PART 5

**TRAILHEAD FACILITY –
REDLANDS COAST EASTERN
HINTERLAND EXPERIENCE**

**Project Number
PDG-43700-1**

Right to Information Release

Information Released

Redland City Council

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 Bloomfield & Middle Streets Cleveland Q 4163
 PO Box 21 Cleveland Q 4163 Australia
 Telephone: (07) 3829 8999 Facsimile: (07) 3829 8765

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Redland City Council

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003	S. Taylor	G Briese		-	21/09/2020
Tender issue	S. Taylor	T. Justice	G. Finlay		

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Right to Information Release

1 SCOPE OF WORKS

Council requires a main/head Contractor for the construction of the Trailhead Facility and associated works at the Eastern Escarpment Conservation Area, Mount Cotton, Redland City.

The work to be performed under this Contract comprises of the provision of the all materials, plant/equipment, labour and the performance of all operations necessary for the supply/delivery, installation or construction, supervision and certification for the proposed works/services, which include but are not limited to:

- Detailed dilapidation survey report (pre and post works);
- Lodgement of applicable applications;
- Dismantle and remove indicated existing fence for reuse;
- Removal of indicated existing Boulders, Rhino Gate, Headwalls and Stormwater Pipes;
- Removal of indicated Trees and Stumps (mulch and reuse on site);
- Clearing and grubbing;
- Design, supply and electrical installation from Mains supply (option 1) OR Design, supply and electrical installation from solar panels (option 2);
- Supply and installation of field inlet pits, stormwater pipes and subsurface drainage;
- Construction of parking and drop off area with asphalt surface;
- Supply and installation of composting public amenity including ramps;
- Construction of concrete footpath and coloured bitumen areas;
- Supply and installation of retaining wall;
- Supply and installation of water tank including pump, filtration unit, water service to drinking fountain and horse trough;
- Supply and installation of shelter including seat;
- Supply and installation viewing platform;
- Supply and installation of ancillary works (signage, bollards, fencing, gates, horse trough and tap, seat);
- Associated earthworks and landscaping (where indicated);
- Any landside or landscaping works that may be required as a result of the works;
- Final RPEQ certified 'As Constructed' (ADAC) drawings for amenities and shelter (with Form 16);
- Electrical certification, final 'As Constructed' electrical drawing(s); and
- Provision of Quality, Work Place Health & Safety Construction, Traffic and Environmental Management Plans.

All works are to be carried out as per the 'For Construction' drawings – Option 1 Energex Electrical Mains Connection (Appendix A), 'For Construction' drawings – Option 2 Solar Power (Appendix B), RCC Safety in Design Report and Risk Register (Appendix C) and other appendices (refer Appendices A to I).

Notes:

1. It is preferable practical completion for this project (on-site) is by Friday 26 March 2021.
2. There are 2 options for Electrical Connection. Appendix A contains the full set of 'For Construction Drawings' including Energex Electrical Mains Connection (Option 1). Appendix B contains 'For Construction Drawings' Solar Power which contains just the drawings applicable to the solar power connection only. Tenderers are to consider and price both options advising

the advantages and disadvantages of each option. Council will then choose one option only for the electrical connection component.

3. Building Application and Decision Notice, Plumbing Application and certification and Electrical will be obtained by the Contractor. All fees associated with the application, certification and completion of building, plumbing and electrical certifications/approvals are to be clearly detailed in the submission.
4. All demolished **OR** removed material is to be taken off-site, recycled (if possible), reused or disposed of at a registered transfer station in accordance with the *Waste Levy Act*.
5. The main/head Contractor is required to provide valid supporting documentation for equipment/items with long lead times that has/have been ordered within five (5) business days of acceptance of Contract.

2 SITE LOCATION AND LAND DETAILS

Trailhead Facility Site

Address: 770 West Mount Cotton Road, Mt Cotton

Land Details: Lot 900 SP223466

Land area: Approximately 14,610m²

Land Owner: Redland City Council (City Spaces as Trustee)

Viewing Deck Site

Address: 240D Mount View Road, Mt Cotton

Land Details: Lot 8 SP243919

Land Owner: State of Queensland

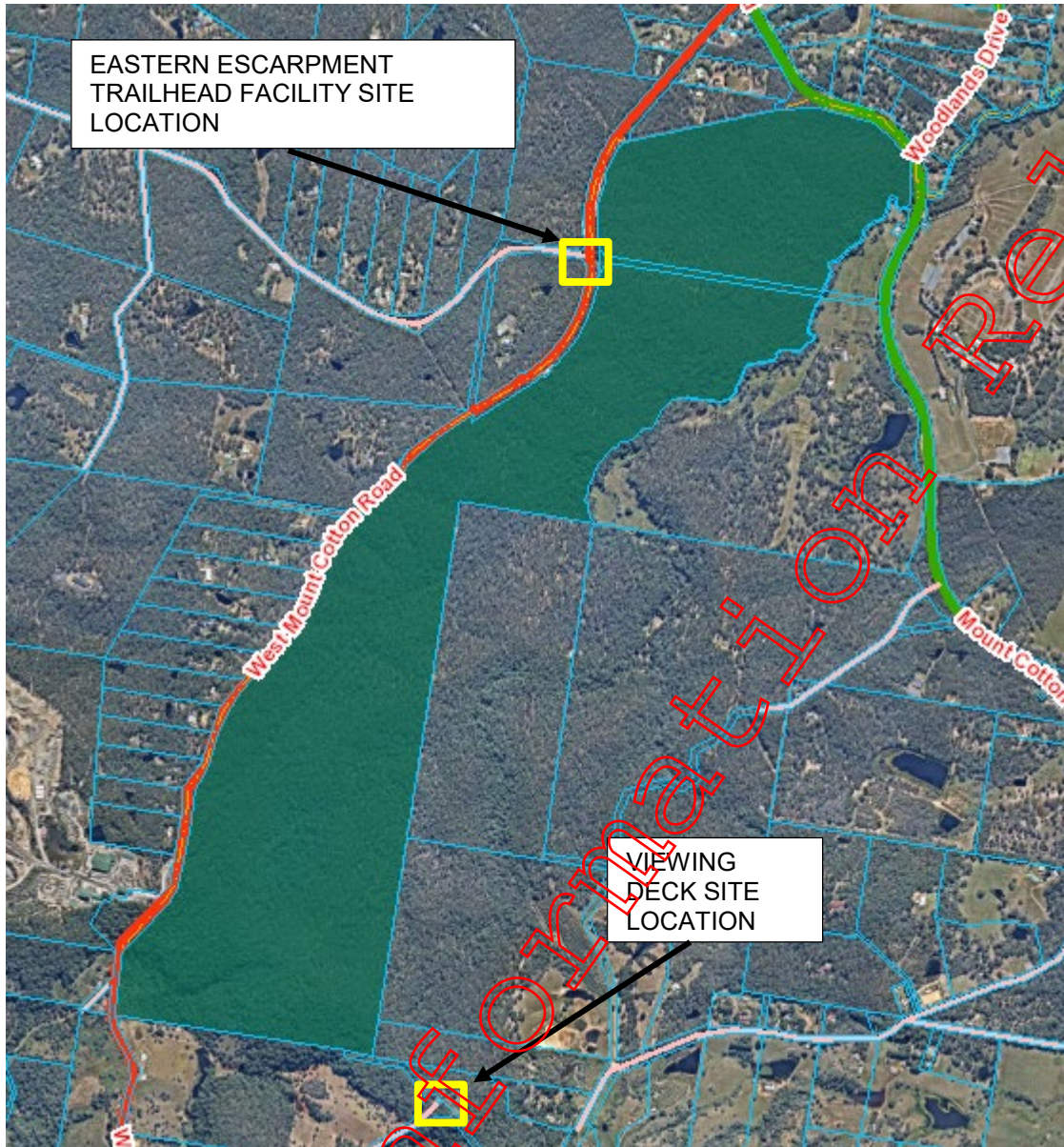


Figure 1: Location of Work sites, Eastern Escarpment Conservation Area

3 CODES GOVERNING WORK

Codes applicable to this work include but are not limited to:

- *Aboriginal Cultural Heritage Act 2003;*
- *Building Act 1975*, associated Regulations and Building Codes including:
 - AS1428 Disability Codes;
- *Queensland Environmental Protection Act 1994 and Regulations 2008;*
- *Work Health and Safety Act 2011, Work Health and Safety Regulation 2011* and current Codes of Practice;
- Standards Association of Australia codes and guidelines as applicable to the various components of the work:
 - AS4970-2009 (incorporating Amendment No. 1) *Protection of trees on development sites;*
 - AS1428 *Design for access and mobility;*

- *Plumbing and Drainage Act 2018*, associated Regulations and Codes of Practice;
- Crime Prevention through Environmental Design (CPTED) Guidelines;
- Energex Standards and Guidelines relevant to intended works; and
- [Redland City Plan](#) policies, infrastructure plans, codes, schedules, standard drawings.

4 CULTURAL HERITAGE

The *Aboriginal Cultural Heritage Act 2003* enforces the Cultural Heritage Duty of Care when human remains, trees, stones, art, or any objects that may have aboriginal cultural heritage significance are located.

The management and protection of Aboriginal Cultural Heritage is to be in accordance with the duty of care provisions of the *Aboriginal Cultural Heritage Act 2003* and any other relevant local government by-laws.

For further information, please refer to *Qld Government, Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) Cultural Heritage Duty of Care* information.

RCC Superintendent will organise all cultural heritage requirements and pay for any Cultural Heritage Monitor fees.

A QYAC Cultural Heritage Officer will be required on site during the initial phase of the excavation works to prepare the site for the new construction & trenching for plumbing & electrical installations.

For the purpose of this project, Council's Project Delivery Group will organise all cultural heritage requirements and pay for any Cultural Heritage Monitor fees required during the excavation works. The Contractor will be required to provide a minimum of 2 days' notice when a Monitor is required for earthworks being undertaken.

4.1 Contractor's Duty of Care

The Contractor will be required to fulfil their Duty of Care, upon locating any object deemed significant, by stopping work, and advising the RCC Superintendent and awaiting instructions.

Failure to do so may result in prosecution and fines under the *Aboriginal Cultural Heritage Act 2003*.

5 BUILDING APPLICATION AND APPROVAL STAGE

The Contractor cannot commence any on site construction until the RCC Superintendent receives, reviews and acknowledges the Building Approval conditions (if any).

5.1 Contractor Responsibility

It will be the Contractor's responsibility to investigate, identify, prepare, lodge and pay for **all** necessary permits and applications for the proposed works.

The Contractor is required to:

- Prepare, lodge and pay for the building application and obtain approval for the proposed works;
- Obtain RCC Superintendent approval to conduct any Geotechnical Investigations (if required);
- Provide technical support and advice relating to any information (including and any other mandatory information required once permit and approval applications is lodged) and up until all permits are issued and received;
- Prepare any additional information required due to any Request(s) for Information from the

selected Private Certifier, Council's Assessment Services Group or any other relevant Government departments. Please provide a copy of the written response (with any supporting documentation) to the RCC Superintendent.

- Forward one (1) hard copy of the Decision Notice (including approved drawings) to the RCC Superintendent within ten (10) business days.
- Forward one (1) hard copy of completed Form 16 Compliance Certificate with RPEQ certification that the structure complies with the relevant building laws, Australian Standards and site specific wind loading, etc. within ten (10) business days from the date on the Contract Letter to the RCC Superintendent.
- Liaise with and submit the electrical reticulation and lighting drawings to Energex for approval (option 1).

An electronic copy depending on size of documents (issued using standard email, Dropbox or USB) of the lodged documents is acceptable. Please restrict emails and associated documents to each type of application.

Note: The "Applicant" and "Land Owner" detail section in all Permit Applications information are to required to be completed in full. Council's *Letter for Owner's Consent* is attached (refer to Appendix I and Appendix J).

5.2 RCC Superintendent Responsibility

The RCC Superintendent will not be conducting any investigation or preparation of any building applications or associated documents.

Note: Council will not be responsible for lodgement of the prepared application forms, payment of associated fees and co-ordination of any Request for Information from any statutory and/or regulatory bodies. Please ensure detailed list of items and costs is included in the tender submission.

HOLD POINT

The Contractor is required to advise the RCC Superintendent in writing when all approvals have been received and negotiate when construction can commence on-site.

The Contractor is to allow 10 business days in their Commissioning Program/Program of Works for this Hold Point.

6 PLUMBING APPLICATION AND APPROVAL STAGE

All works is to be in accordance with the *Plumbing and Drainage Act 2019*, associated Regulations and Codes of Practice.

The Contractor is not to commence any on site construction in relation to the amenities building until the RCC Superintendent receives, reviews and acknowledges the Plumbing Approval requirements from Council.

6.1 Contractor Responsibility

Complete Qld Government DHPW *Form 1 – Permit work application for plumbing drainage and on-site sewerage work* and forward with one (1) full set of Hydraulic Design to the RCC Superintendent for Council records.

For detailed information please refer to the [Queensland Government Department of Housing and Public Works](#) website, [Queensland Building and Construction Commission](#) website, Plumbing Industry Council Notifiable Work Hotline direct on 1800 264 585 or email notifiablework@qld.gov.au.

6.2 RCC Responsibility

The RCC Superintendent will confirm in writing when the Plumbing Approval is received from Council.

HOLD POINT

The Contractor is to allow twenty (20) business days in their Commissioning Program/Program of Works for this process. The RCC Superintendent will confirm in writing when the Plumbing approval has been received and if required, negotiate when plumbing works can commence on-site.

7 CONTRACTOR REQUIREMENTS

7.1 Site Specific Quality Management Plan (SSQMP)

The successful contractor must submit a SSQMP for review and approval by the RCC Superintendent prior to the possession of site being granted.

For the purpose of the Tender Evaluation Process only, the Contractor must submit an example QMP to Council for review. The example QMP must generally be a similar project and include similar detail as required in the SSQMP.

In preparing the SSQMP, the Contractor should consider inclusion of the following (where applicable):

- Register of Work Procedures;
- Control of inspection, measuring and test equipment;
- Special processes (if any);
- Control of products and/or services provided by your client if any (including handling, storage, packing, preservation and delivery);
- Control of products and/or services provided by your suppliers or subcontractors and subconsultants if any (including handling, storage, packing, preservation and delivery);
- Product identification and traceability; and
- Associated forms and checklists used to monitor, review, and assess quality.

The final SSQMP is to be signed, dated and submitted for acceptance by the RCC Superintendent prior to the possession of site being granted. The final accepted SSQMP must be available on site at all times for the duration of the project.

7.2 Work Health and Safety

The Contractor is responsible for ensuring compliance with their obligations as is defined in the *Work Health and Safety Act 2011*, associated Regulations and Codes of Practice.

The Contractor will be appointed as a Principal Contractor for this project. A Principal Contractor has a duty to ensure the health and safety of the workers (including contractors and subcontractors) and other persons arising from the construction work carried out at or near the vicinity of construction project.

Principal Contractor duties are as specified on the [Workplace Health and Safety Queensland](http://www.workplacehealthandsafety.qld.gov.au/) website.

The Principal Contractor and his subcontractors and employees are to ensure that all work under this contract is performed in such a manner that no hazard or risk of injury or damage exists to the Principals employees or property.

7.2.1 Uniforms and Personal Protective Equipment (PPE)

The Contractor must adhere to Council's Personal Protective Equipment (PPE) requirements. The Contractor must ensure:

- all members of the Contractor's Staff are aware of all safety requirements including, but not limited to correct protective equipment and being in full uniform at all times. Full uniform includes (as a minimum, safety shoes, broad brimmed hat, high visibility vest/shirt, long sleeves and trousers for Contractor's Staff undertaking work at Council's sites.
- that the Contractor's Staff comply with any directions of Council's Representative in respect of their personal appearance or attire concerned with matters of health or safety, consistent with Council's Employee Code of Conduct.

7.2.2 Work Health and Safety Management Plan (WHSMP)

The successful contractor must submit a WHSMP for review and approval by the RCC Superintendent prior to the possession of site being granted.

For the purpose of the Tender Evaluation Process only, the Contractor must submit an example WHSMP to Council for review. The example WHSMP must generally be a similar project and include similar detail as required in the WHSMP.

In preparing the WHSMP, the Contractor should consider inclusion of the following (where applicable):

- Work Method Statements and/or Job Safety Analysis associated with all works required but not limited to:
 - Manual Handling;
 - Using hand and power tools;
 - Public entering the construction/work site;
 - Undertaking Trenching and Excavation;
 - Undertaking high risk work activities, such as:
 - (a) involves a risk of a person falling more than 2m;
 - (b) is carried out on, in or adjacent to a road, railway, shipping lane or other traffic corridor that is in use by traffic other than pedestrians;
 - (c) is carried out on or near energised electrical installations or services;
 - (d) is carried out in an area at a workplace in which there is any movement of powered mobile plant;
- Council's Personal Protective Equipment (PPE) requirements;
- Any relevant [Codes of Practice](#); and
- Refer to the checklist issued with request for tender.

The final WHSMP is to be signed, dated and submitted for acceptance by the RCC Superintendent prior to the possession of site being granted. The final accepted WHSMP must be available on site at all times for the duration of the project.

7.3 Site Specific Traffic Management Plan (SSTMP)

The successful contractor must submit a SSTMP for review and approval by the RCC Superintendent prior to the possession of site being granted.

For the purpose of the Tender Evaluation Process only, the Contractor must submit an example TMP to Council for review. The example TMP must generally be a similar project and include similar detail as required in the SSTMP.

The Contractor will be fully liable and responsible for all equipment, resources, costs, risks and the like associated with all site traffic management, including but not limited to preparing and working in accordance with a certified MUTCD compliant Traffic Management Plan relating to the site, relevant work and adjacent areas.

Traffic Management Control activities undertaken on public road reserves within the boundaries of Redland City Council must be recorded using online traffic management software (["Asignit"](#)) this includes all site specific administration details and approved traffic management plans.

In preparing the SSTMP, the following impacts and operational control measures are to be considered and incorporated (where applicable):

- Use of an external accredited 3rd party traffic management company to provide certified MUTCD Traffic Management Plan and scheme/s for each site;
- Traffic Management considerations including:
 - pedestrian traffic access in/out and around works site;
 - vehicular traffic (including delivery vehicles) access in/out, adjacent to, along and around the works site; and
 - any forms/checklists used by the main/Principal Contractor to manage the project;
- Refer to Checklist issued with tender.

The Contractor will be required to complete a RCC Traffic Control Permit and submit with final certified SSTMP for approval to Council prior to the possession of site being granted by the RCC Superintendent.

The Contractor must not commence work on site until the final SSTMP is signed, dated and submitted for acceptance by Council and a Traffic Permit issued.

The final SSTMP must be available on site at all times during this project. Liability will be incurred by the Contractor for failure to adhere to any conditions stated within the approved SSTMP.

7.4 Site Specific Environmental Management Plan (SSEMP)

The successful contractor must submit a SSEMP for review and approval by the RCC Superintendent prior to the possession of site being granted.

The Environmental Management Plan provides a framework for environmental management to be implemented on the site during the construction phase. It helps to ensure that impacts on the environment are minimised and that the 'environmental due diligence' requirements of Council and the Contractor are being undertaken as defined by the *Environmental Protection Act 1994*, associated Regulations and Codes of Practice.

For the purpose of the Tender Evaluation Process only, the Contractor must submit an example EMP to Council for review. The example EMP must generally be a similar project and include similar detail as required in the final SSEMP.

In preparing the SSEMP, the Contractor should consider inclusion of the following impacts and operational control measures (where applicable):

- Air quality, noise and dust management;
- Water and waste management arrangements in accordance with Waste Disposal Regulations;
- Flora including tree protection zones;
- Fauna;
- Working within a Koala Habitat;
- Sediment and Erosion control;
- Acid Sulphate Soils (if encountered);
- Any other relevant environmental factors that may be impacted by works onsite; and
- Refer to checklist issued with request for quote.

The final SSEMP is to be signed, dated and submitted for acceptance by the RCC Superintendent prior to the possession of site being granted. The final accepted SSEMP must be available on-site at all times for the duration of the project.

7.5 Storage of Contract and approved Final Management Plans

Until the documents as per the Contract have been submitted and deemed acceptable by the RCC Superintendent, the Contractor will not be granted possession of the site.

The Contractor must ensure at least one (1) signed approved copy of all following accepted Contract documentation is kept on site for the duration of works:

- Approved Permits, Building and/or Plumbing Certifications;
- Project Brief;
- Final approved 'For Construction' Drawings;
- RCC Safety in Design Report and Risk Register; and
- Final approved Site Specific Management Plans (as stated above).

This documentation may be requested during the duration of works and are to be handed over the RCC Superintendent on completion of the works.

8 CONSTRUCTION STAGE

Work must be undertaken by a licensed Contractor as required by the *Queensland Building and Construction Commission (QBCC) and Queensland Building Services Authority Regulation* and other applicable legislation.

The Contractor is solely responsible for the execution and completion of all works under the Contract including:

- Being undertaken in accordance with the approved design drawings, permits/approvals, manufacturers recommendations/instructions;
- Ensuring that all operations and methods of removal, construction or installation, materials and workmanship are safe, sufficient and in accordance with the Contract documents;
- All subcontracted work is to be co-ordinated by the Contractor so that works proceed without delay;
- All materials are new, unless otherwise identified by Contractor and approved by Council during tender submission, or the RCC Superintendent on-site;
- Supply and delivery of all goods to the site mentioned in the documents issued at the Contractor's own expense and at such time or times as approved by the RCC Superintendent. The Contractor is required to pay duty, freight, cartage, insurance and all other charges. Delivery is to include off-loading at the site or sites unless otherwise specified; and
- In addition to items of work specifically mentioned in the relevant sections, each trade will assist, leave holes for, cut away for, do chasing and drilling for make good after, and arrange work sequence with every other, in such a manner as to promote the best interests of the works as a whole.

The Contractor must also ensure:

- Two (2) business days notice is given to the RCC Superintendent of any shutdowns and obtain approval prior to the shutdown occurring; and
- Variations will not be authorised for unnecessary additional work due to disputes between trade and subcontractors, or between subcontractors and the Contractor.

8.1 Work Hours

The Contractor will be required to adhere to the following work hours:

- Monday to Friday 7.00am to 6.00pm
- Saturday 7.00am to 5.00pm only with prior written approval from the RCC Superintendent
- Sundays or Public Holidays No work

These days and times can only be varied with the written approval of the RCC Superintendent.

8.1.1 Existing Services

The Contractor is required to take every precaution to protect existing services, including gas, water, storm water, sewerage, electricity and telephone conduits (if present), and other existing works and services.

It is the Contractor's responsibility to locate such works and services prior to commencement of any works on site.

Existing Services such as drains, watercourses, public utility and other services, if encountered, obstructed, or damaged by the Contractor or their nominated Subcontractors in the course of performing the work under the Contract, is to be dealt with as follows:

- If the Service is to be continued: Repair, divert, relocate as required; or
- If the Service is to be abandoned: Cut and seal or disconnect.

All cost associated with works on public utilities are to be included in the tendered price.

Damage to Existing Services by the Contractor is to be reported immediately to the RCC Superintendent and the Authority concerned and is to be repaired at the Contractor's expense to the satisfaction of the Authority and the RCC Superintendent.

8.2 Possession of Site

Prior to commencement of construction works, the Contractor is required to liaise with the RCC Superintendent to determine access and any necessary work in relation to site access for the Contractor's plant, materials, personnel etc.

Possession of site will not be given until the RCC Superintendent has received, reviewed and deemed acceptable:

- All outstanding documentation as stated in the Contract;
- All associated permits/approvals; and
- Any approved Building and Plumbing Application with Decision Notices.

8.3 Site Establishment Conditions

The Contractor's initial access to the site must be coordinated with the RCC Superintendent prior to any works commencing. Possession of the site will be in accordance with the directions from the RCC Superintendent.

The Contractor is required to:

- Employ on the site at all times a named competent foreperson who will not be changed during the course of the works without the RCC Superintendent approval;
- Supply all necessary labour including assistant foreperson, leading hands, time clerks, laborers, etc, necessary for the efficient organisation of the work;

- Assess the site's existing condition (refer to Dilapidation Survey Report below) and notify the RCC Superintendent in the event that they assess the site as not suitable for handover and commencement of the works;
- Assume responsibility for the type and quality of work undertaken and the extent of works within the site;
- As is reasonably practicable, ensure the site is to be kept clean internally and externally and all existing surface finishes, physical structures, and newly finished surfaces and materials subject to staining or other disfigurement protected from damage;
- Maintaining the site, public ways and car park around each site for general public use outside the Contractor's hours of work (where applicable);
- Be responsible for all establishment works on the site including the setting up of temporary facilities, services, site offices and workplace amenities. The location of all site buildings and access ways must be approved by the RCC Superintendent before installation;
 - Amenities and facilities for use by work persons during construction works are to be provided by the Contractor and must comply with the requirements of all Authorities. The Contractor is required to maintain amenities in a clean and sanitary condition and remove all amenities and any by-products at the completion of the work.
 - Preferred provision of Workplace Amenities is to be clearly detailed in the Site Specific Safety Construction Management Plan (and site layout).
- Observe and ensure that all personnel, including sub-contractors and nominated suppliers observe the rules and regulations in force on the construction site and comply with all notices and instructions issued by the RCC Superintendent in relation to such rules and regulations. The Contractor will comply with any environmental or other conditions stipulated by RCC Superintendent;
- Be responsible for all disestablishment works on the site including removal from site of plant/equipment, temporary works and services, as well as all surplus materials, spoil and debris and restoration of all disturbed areas. All spoilage removal is to comply with all relevant legislation and standards;
- Provide and maintain suitable weather protection for all work during the progress of the project;
- Make good all damage including such damage caused by officers' and separate subcontractors on the site and consult with subcontractors for the provision of the extent of protection required. This includes any damage to fencing, footpaths, roadways, surfaces, pavements, furniture, including vegetation and any other work which may be disturbed or injured by cartage or other operations and to work under construction as it occurs and in any case before practical completion; and
- Upon completion of all works and prior to practical completion, the Contractor is required to clean all new and existing surfaces to the RCC Superintendent's satisfaction.

Any damage caused to the site works or adjacent properties by the execution of work in this Contract is to be made good by the Contractor at their own expense and to the satisfaction of the RCC Superintendent.

8.3.1 Site Security

The Contractor is wholly responsible for the proper and adequate safeguarding of the works, and of fixed and unfixed materials on the site during both business and non-business hours.

No claim for extensions of time or extra cost will be allowed in respect of damage or loss of materials or interruption of work due to the Contractor's failure to adequately safeguard the Works.

All losses is required to be replaced by the Contractor without cost to the Council.

Temporary Fence

The Contractor is required to enclose the works site and plant/laydown area within the defined Contractor's site area as shown on the drawings with a temporary barricade to satisfy requirements of the *Work Health and Safety Act 2011*, associated Regulations and Codes of Practice.

The Contractor may be required to make any modifications or extensions to the fence to ensure that they provide the necessary level of protection so as to protect persons from injury and/or property damage.

No advertisement of any kind is to occur on the fences without the permission of the RCC Superintendent.

8.3.2 Natural and Built Assets

The Contractor is to take care to preserve all natural and built assets at the site. Any destruction of the natural and built assets (including work in progress) by the Contractor may be regarded as a default and will be subject to the provisions of the Conditions of Contract.

The Contractor is required to:

- Refrain from destroying, removing or clearing trees, timber, scrub or other vegetation unless approved by the RCC Superintendent in writing, and
- Protect and avoid damage to built assets and work in progress.

8.3.2.1 Dilapidation Survey Report

The Contractor is required to provide detailed pre and post works dilapidation survey report. This survey is to extend over the property to include all areas that will be influenced by the Contractor's work. It is suggested as a minimum that the following are included:

- Detail existing conditions within the site and on adjoining properties, especially structural defects, environmental degradation, erosion and other damage or defacement;
- Areas of influence should be critically indentified by the contractor;
- Photographs should be taken for the full extent of the work area including adjacent areas as evidence of existing condition;
- Existing areas of dilapidation should be photographed in detail;
- Photographs should clearly identify existing condition and extents of dilapidation;
- Where cracks are present a crack gauge &/or tape measure should be used to measure such dilapidation; and
- Where movement or separation of structures exist, a crack gauge &/or tape measure should be used to measure such dilapidation.

The contractor shall provide:

- Not less than two (2) copies of the report, including drawings, written descriptions, and photographs, to be endorsed by the RCC Superintendent, as evidence of conditions existing before commencement of work.
- One (1) endorsed copy of each record or report to the RCC Superintendent and keep the other endorsed copy on site.

A post work survey should be undertaken exactly replicating the prework survey.

8.3.3 Set Out, Survey and Levels

The Contractor is responsible for the setting out of the works according to the dimensions and levels

shown on the approved drawings and for obtaining the correct dimensions of any items selected before the Contractor makes arrangements for building-in etc.

No variations will be allowed for costs in amending errors arising from inaccuracies in setting out or for failure on the Contractor's part to obtain the necessary information and dimensions of any equipment, fixtures or items required to be installed.

Measurement, Dimensional Control and Interpretation of Drawings

It is the Contractor's responsibility to:

- Check all dimensions on-site before setting out, proceeding with the work and committing any component to manufacture. The layout of plant, equipment and fixtures as shown on the drawings is to be taken as diagrammatic only and all measurements and other information required to carry out the work specified is to be obtained by the Contractor on the site.
- Check all shop drawings for dimensional accuracy before being submitted to the RCC Superintendent.
No claims arising from failure to obtain measurements and other information on site will be considered.
- Notify the RCC Superintendent of any anomalies found so that appropriate rectification can be made. This includes but is not limited to:
 - Any discrepancy found between figured and scaled dimensions, the figured dimensions will take preference but in any case the RCC Superintendent is to be notified; and
 - Any item of work that is not wholly indicated on the drawings, the Contractor is to, in the actual execution of the work, complete same to entirely correspond with work of a similar nature drawn in detail elsewhere on the drawings and in full accordance with the Specification.

8.3.4 Water Usage (Water Tanker Filling Stations)

The Contractor is advised that standpipes are no longer permitted to be used and water tankers etc. are required to use filling stations. Filling stations provide a higher degree of security to the water network and prevent water quality issues.

Redland Water operates potable water tanker filling stations at the following potable water filling stations:

- Fellmonger Park, 101 Sturgeon Street, Ormiston;
- 171 Ney Road, Capalaba;
- Pinklands Sporting Complex, 226 Cleveland-Redland Bay Road, Thornlands;
- 47-49 Orchard Road, Redland Bay; and
- 11 Valley Way, Mount Cotton.

These stations are operated by using the Contractor's credit card at the filling station control panel. This allows water to flow and the controls on the machine enable the customer to control the volume received.

Operation

1. Ensure the outlet valves on the filling station are closed;
2. If you are using the 75mm outlet, ensure that your filling hose is connected at both ends; or
3. If you are using the 25mm outlet, ensure that your filling hose is connected at the valve and the outlet end is secured.

4. Select a \$ value using the UP (+)/DOWN (-) buttons;
5. Press ENTER to confirm selected \$ value;
6. Wave/insert your credit/debit card at card reader;
 - Machine says “Please wait for confirmation”;
7. Pre-authorisation approved:
 - Machine says “Thank you and good bye”
8. Press ENTER;
9. Open the outlet valve;
10. Fill your tank;
11. Close the outlet valve;
12. Press FINISH:
 - Machine says “Thank you and good bye”;
13. DISCONNECT YOUR HOSE.

Pre-authorisation failure

If your pre-authorisation is declined, there may be insufficient funds available on your card. Please try again with a lower value. If your card is declined again, please contact your card issuer.

Note: Your credit/debit card will be preauthorised for the \$value you select. Once you have completed the transaction, you will only be charged for the water you have taken (minimum charge - \$1.00)

8.3.5 Site Progress Meetings & Minutes

The Contractor must attend a pre-start meeting with the RCC Superintendent prior to possession of the site being granted.

After possession of site, it is mandatory for the Contractor to commence meeting with the RCC Superintendent and/or the Superintendent's Representative at weekly intervals or other mutually agreed times to review project progress against the Program of Works, update project projected cash flow and discuss any other relevant issues.

The Contractor is required to arrange for the attendance of such other members of their staffs, consultants and representative of Subcontractors and Suppliers as may be required. The mandatory meetings should not restrict the need for any additional progress/update meetings required during the construction period.

In addition to the requirements outlined above and under Section 9 Inspection of Works and Hold Points, the RCC Superintendent may schedule additional meetings with the Contractor to discuss issues or seek information about the project. The Contractor will be obliged to attend these meetings.

The RCC Superintendent is required to keep minutes of such meetings and have one copy sent to the Contractor as soon as possible after each meeting. The Contractor's supervisor/foreperson is required to keep copies of site meeting minutes on site.

The Contractor is required to provide to RCC Superintendent with a weekly project update report which is to include photos of the works undertaken, progress of works, any delays and other construction issues.

8.4 Tests

The Contractor is responsible for:

- Conducting all reasonable and relevant tests that may be required by the RCC Superintendent during the progress of the Works or in the Defects Liability Period to show that any part of the Works complies with the specification. In particular, if directed or hereinafter specified, make

any test laid down by any relevant SAA or BSI Code or specification; and

- Provision of all necessary materials, labour and equipment to carry out the test. Field tests is to be prepared, adjusted, and run before the Contractor asks the RCC Superintendent to inspect them.

8.5 Public Notification

The construction and installation of signage is to comply with all relevant legislative codes, regulations and standards including the *Queensland Building Act 1975* and the *Building Code of Australia*.

The Contractor is responsible for ensuring the following public notification is undertaken.

8.5.1 Public Notification (Construction Signage)

- Any signage wording is to be forwarded for review and acceptance by the RCC Superintendent prior to being displayed;
- Prior to commencement of works on site, appropriate signage is erected advising all users of proposed works. The signage is to include:
 - Time and duration of construction; and
 - Name and phone number of Contractor's representative.

8.5.2 Public Notification (Letterbox drop)

- Notification letter is to be forwarded for review and acceptance by the RCC Superintendent in writing prior to being distributed. The letter is to contain:
 - Details of the project;
 - Expected timeframes; and
 - Name and phone number of Contractor's representative.
- Distribution to affected residents by a letterbox drop must commence at least five (5) business days' prior to commencing any work on site.

8.5.3 Complaints

Should the Contractor receive any complaints they are to notify the RCC Superintendent by phone and follow up in writing details of the complaint and any action taken to resolve the complaint. The RCC Superintendent will manage any consultation required with the commercial and any general users.

9 INSPECTION OF WORKS IN PROGRESS AND HOLD POINTS

The Contractor is required to give the RCC Superintendent reasonable notice (minimum 2 business days notice) when any part of the work is ready for inspection in order that approval may be given for the work to proceed further.

An inspection by the RCC Superintendent and/or an instruction given or certificate issued by the RCC Superintendent will **not** be deemed to imply that the Principal has assumed or taken over any part of the Contractor's responsibility as defined above.

If any works are completed, filled in or covered up by the Contractor, without the approval, of RCC Superintendent, the RCC Superintendent may have such work rejected and replaced, or opened up and exposed for inspection at the expense of the Contractor.

No variations for delays will be accepted if insufficient time is provided for inspections.

The following inspections/hold points are to be reviewed, carried out and deemed appropriate by the RCC Superintendent prior to commencement of further associated works:

Prior to possession of the site

- Building Approval(s) including Form 15, Decision Notice (s), approved plans and all supporting documentation;
- Completed *Form 1 Application for Compliance Assessment* and approval for plumbing works;
- Pre-start up meeting onsite with Redland City Council; and
- Final completed and signed Site-Specific Management Plans.

During construction

- Site Establishment;
- Dilapidation Report (prior to commencement of works);
- Erosion and sediment control measures are in place and in working order. These are to be checked weekly and following rainfall events;
- Site works including Work Health and Safety, Quality, Traffic and Environmental Management;
- Set out of all new structures, slabs, pathways, furniture and auxiliary assets;
- Alignment and level control prior to excavation;
- Inspection prior to pouring any concrete;
- Inspection of prepared pavement prior to bitumen sealing;
- Verification of services installed; and
- General ongoing site presentation (neat & tidy, free of rubbish and hazards).

Prior to Fit for Purpose

- All assets/ services installed and functioning correctly;
- Building Approval(s) including Forms 16, 11 and 21;
- Electrical certification;
- Plumbing Compliance Certificate; and
- General site presentation (visual, free of defects and/or hazards)

Prior to Practical Completion

- Final RPEQ certified 'As Constructed' (ADAC) drawings;
- Electrical 'As Constructed' electrical and switchboard design drawings; and
- General site presentation (visual, free of defects and/or hazards)

At End of Defects Liability Period

- General site presentation (visual, free of defects and/or hazards); and
- All assets/ services functioning correctly.

10 LANDSCAPE WORKS (TURF)

The Contractor will be required to undertake turf work to ensure a tie between the new and old work. This work will be completed to the satisfaction of the RCC Superintendent.

The Contractor will be responsible for:

- Turf Supply;
- Achieving levels between new works and existing turf;
- Topsoil preparation (including fertilising);

- Placement of turf;
- Tamping;
- Initial Watering/Fertilising until off-site; and
- Maintenance period of ten (10) business days for turf establishment.

10.1 Turf Supply

Obtain turf from a specialist grower of cultivated turf. Turf is to be 'A' grade quality turf, free from pests, diseases and weeds. All turf supplies must have been freshly cut and rolled, ensuring a minimum 25mm thickness and 300mm width strips.

10.2 Delivery

Deliver the turf within 24 hours of cutting, and lay it within 36 hours of cutting. Prevent it from drying out between cutting and laying. Turf is to be delivered covered, stored covered and lightly watered every 12 hours.

10.3 Site Preparation

Remove all weeds, debris and other deleterious material from the area. Profile the existing sub-grade to achieve the desired FSL's and drainage falls. Cultivate the sub-grade to 150mm depth.

Apply fertilizer as per Turf supplier's recommendations (or approved equivalent) and manufacturer's specifications prior to laying turf. Retain bags for counting by the RCC Superintendent before disposing of same.

10.4 Placement

Lay the turf in the following manner:

- In stretcher pattern with the joints staggered and close butted;
- Parallel with the long sides of level areas, and with contours on slopes;
- To finish flush, after tamping, with adjacent finished surfaces of ground, paving edging, or grass seeded areas;
- Ensure prior to laying turf that all falls across slopes have even grade falls with no humps or hollows; and
- Strip turf laying: Close butt the end joints and space the strips 300mm apart. Apply a layer of top dressing between the strips of turf. Finish with even surface.

10.5 Tamping

Lightly tamp to an even surface immediately after laying. Do not use a roller.

10.6 Watering

Water immediately after laying until the topsoil is moistened to its full depth.

10.7 Fertilising

Mix the fertiliser thoroughly into the topsoil before placing the turf.

10.8 Fireweed Infestation

There has been several instances of fireweed (Declared Class 2 Pest Plant) infestations in newly laid turf areas. The areas are wide spread throughout the Redlands, and it is not known at this point where the infestations have originated, however investigations are under way.

Fireweed is not a new weed species to the Redlands, however it is of concern that it is being imported in new turf from outside the Redlands and it is expensive to treat.

Please refer to the Queensland Government [DEEDI Biosecurity Queensland Fact Sheet](#) for further information.

Council will require the Contractor to guarantee in writing that the turf provided is “free of fireweed”.

10.9 Tree Protection Zones

The Contractor must ensure that:

- Tree protection is in accordance with the *Australian Standard AS4970-2009 (incorporating Amendment No. 1) Protection of trees on development sites* which outlines the best practices in a staged approach. This standard should be used from the construction stage giving both the Council and the Contractor direction and ability to reference back to this standard.
- No restricted activities occur in a Tree Protection Zone (TPZ) unless discussed with the RCC Superintendent prior to the work occurring;
- The health of all trees – whether expressly covered by a TPZ, or not - is not threatened by project-related activities. TPZ's must remain in operation for the duration of the works to ensure that no trees are damaged during the works;
- All trees on-site (nominated, adjacent to the works or likely to be impacted by the works) is protected from activities which may be detrimental to the short or long-term health of the trees and/or the possibility of being damaged during the works; and
- The RCC Superintendent is notified immediately if any activities contrary to the above occurs and must take remedial action to rectify the breach.

In addition to the above, the RCC Superintendent and/or the Contractor may require additional advice from either or both Council's Parks & Conservation Unit Officers or a Contractor supplied arborist. The cost of the Contractor supplied arborist is to be allowed as a provisional item.

11 FIT FOR PURPOSE

Fit for Purpose for completed works under the Contract will not be issued until all work has been approved by the RCC Superintendent and one (1) hard copy and an electronic copy of the following approved documents are provided in Microsoft Word format and Adobe .pdf format (unless otherwise specified):

1. Certification

- RPEQ engineer signed and certified drawings for the structure/s and footing/s with completed copy of Form 15 Compliance Certificate within ten (10) days from the Contract Notification date;
- Form 16 Inspection Certificate/Aspect Certificate/QBCC Licensee Aspect Certificate for Certificate of Classification signed by a Registered Practising Engineer (Qld);
- Form 11 – Certificate of Classification (i.e. Commercial Structures Class 2 to Class 9) signed by licensed certifier (Class A);
- Form 21 – Final inspection certificate (i.e. Domestic Structures single detached class 1a buildings, class 10 buildings, or structures) signed by licensed certifier (Class A); and
- Electrical testing and certification.

2. Plumbing

- One (1) set of full Hydraulic Design; and
- Qld Government DHPW completed Form 1 – Compliance assessment application for plumbing, drainage and on-site sewerage work (required prior to possession of site being granted).

3. General on-site works

- Ensure all works completed in accordance with Section 9 Inspection of Works and Hold Points to the approval of the RCC Superintendent;
- Confirmation in writing of removal of all temporary fences (if required), stock pile (if any), plant, shed and equipment not forming part of the works; and
- Confirm in writing site resumption to its original condition and protecting from damage the existing physical elements, services, built infrastructure and make good any damage and pay all costs arising there from.

12 PRACTICAL COMPLETION

A Certificate of Practical Completion will not be issued until all work has been approved by the RCC Superintendent and one (1) hard copy and an electronic copy of the following approved documents are provided in Microsoft Word format and Adobe .pdf format (unless otherwise specified):

- Final list of all subcontractors and suppliers (including full contact details) detailing works undertaken and/or items supplied;
- Manuals, guarantees, warranties and maintenance schedules issued with any equipment or structures;
- Detailed Fixtures, Fittings and Finishes Schedule (including product types, paint and color codes, quantity take-off/measurements, etc.) and costs used throughout the project;
- Fireweed Free Guarantee (written) required for all works where turf was laid; and
- Final RPEQ certified 'As Constructed' (ADAC) drawings as a record of information issued for construction and also including information recorded after construction (including site directions, service locations, variations, hidden works and the like).

The Contractor is to ensure that the relevant 'As Constructed' information is requested and obtained as construction proceeds, with allowance for a minimum of two (2) business days for review of 'As Constructed' information by the RCC Contract Authority OR RCC Superintendent.

The 'As Constructed' Drawings are required to be submitted in:

- (a) Hard copy – one (1) paper print and one (1) electronic copy in .dwg format;
- (b) Digital form (the design drawings are available as a base to the from the Principal) in a format acceptable to AutoCAD 2010;
- (c) Other work 'As Constructed' information presented in Microsoft Software format (e.g. Word, Excel, and Access); and
- (d) Electronic copy of 'As Constructed' survey in 12da format.

Note: The positions of all structures and key features is to be referenced to the horizontal (RCC Co-ordinates) and vertical (AHD) datum.

Refer to Council's [Local Government Infrastructure Plan](#) and [Redland City Plan](#) (most current version), for 'As Constructed' Plans ('ASCON') requirements at [Planning, building and development](#).

- Final 'As Constructed' sewerage services drawing(s); and
- Final 'As Constructed' water services and hydraulics drawing(s).

Notes:

1. An electronic copy of all documentation required for the purpose of achieving Practical Completion is acceptable in the formats defined above. Depending on the size of the files, please issue documentation using Dropbox or USB (hand to RCC Superintendent).

2. The Contractor must include all costs associated with the works in the tendered price.

13 DEFECTS LIABILITY PERIOD

The Contractor is responsible for ensuring all works within the defects liability period of Fifty-two (52) weeks are free from defects due to inferior materials and workmanship from the Date of Practical Completion for the duration of the specified term.

The RCC Superintendent will compile and issue to the Contractor, a defect list indicating defects currently outstanding. The list will be updated at regular inspections of the structures by the RCC Contract Authority and such Consultant’s and Subcontractors whom the Contractor may require from time to time. Inspections will be held at the RCC Superintendent’s discretion depending on the number and urgency of the defects currently listed.

All defects reported during the Defects Liability Period are required to be rectified within Ten (10) days from the date of issue of the defect list. Defects which affect safety, health, or which seriously interfere with the essential functions of the structures is to be rectified immediately after they are reported.

Access to occupied areas of the structures for the purpose of rectifying defects will be only at the discretion of the Principal and need to be coordinated with the RCC Superintendent.

14 FINAL COMPLETION

Written instructions for the rectification of works may be issued and a final defects inspection date arranged.

After the RCC Superintendent has undertaken a final inspection and is of the opinion that all work has been performed in accordance with the Contract, the RCC Superintendent will issue to the Contractor a Final Certificate.

15 DOCUMENTATION ISSUED

The Contractor will be responsible for ensuring that all required work (including works detailed, any updates or revisions through the issue of Addendum Notices and/or Tender Submission Clarifications) is completed.

Please read the following documentation in conjunction with this Project Brief:

DOCUMENT REFERENCE	TITLE/DESCRIPTION	Document Reference No.
Appendix A	Redland City Council ‘For Construction’ Drawings Set – OPTION 1	
	• Title Sheet, Drawing Schedule and Locality Plan	43700-001 (Rev B)
	• General Notes	43700-002 (Rev B)
	• Civil Legend, Notes, Plant Schedule, Soft Works, Schedule and Typical Cross Section	43700-003 (Rev B)
	• Furniture & Finishes Schedule	43700-004 (Rev B)
	• Public Amenities-Schedule of Finishes Sections	43700-005 (Rev B)
	• Engineering Survey & Demolition Plan	43700-101 (Rev B)
	• Trailhead Facility Overall Proposed Works Plan	43700-201 (Rev B)
	• Trailhead Facility Detail Plan	43700-202 (Rev B)
	• Trailhead Facility Setout Plan	43700-203 (Rev B)
	• Control Line, Setout and Contour Plan	43700-204 (Rev B)

	<ul style="list-style-type: none"> Viewing Deck Proposed Works Setout Plan Furniture Details Plan Sheet 1 Furniture Details Plan Sheet 2 Public Amenities Details Plan Longitudinal Sections EB01, INV1 Longitudinal Sections MC01, MC02 Cross Sections – INV1 (Bitumen Invert) Stormwater Drainage Catchment Plan and Setout 	43700-205 (Rev B) 43700-401 (Rev B) 43700-402 (Rev B) 43700-403 (Rev B) 43700-501 (Rev B) 43700-502 (Rev B) 43700-503 (Rev B) 43700-504 (Rev B)
Appendix B	Redland City Council 'For Construction' Drawings Set - OPTION 2 <ul style="list-style-type: none"> Furniture & Finishes Schedule Public Amenities-Schedule of Finishes Sections Engineering Survey & Demolition Plan Trailhead Facility Overall Proposed Works Plan Trailhead Facility Detail Plan Trailhead Facility Setout Plan 	43700-004 (Rev B) 43700-005 (Rev B) 43700-101 (Rev B) 43700-201 (Rev B) 43700-202 (Rev B) 43700-203 (Rev B)
Appendix C	RCC Safety in Design Report and Risk Register	Dated 3/08/2020
Appendix D	RCC Standard Drawing <ul style="list-style-type: none"> Footpath Profile Policy Concrete Footpaths and Shared Use Paths 	R-RCC-5 (Rev C) R-RCC-4 (Rev E)
Appendix E	IPWEA Standard Drawings <ul style="list-style-type: none"> Sediment Control Devices Sediment Fence, Entry/Exit Sediment Trap Sediment Control Devices Kerb and Field Inlet – Check Dams & Straw Bales Drainage Pits – Field Inlet Type 1 and Type 2 Road Furniture Traffic Sign Installation Details Subsoil Drains Details and Locations 	DS-040 (Rev D) DS-041 (Rev D) DS-050 (Rev D) RS-131 (Rev E) RS-140 (Rev F)
Appendix F	Hendriks House Consulting Engineers <ul style="list-style-type: none"> Structural Details, Sections and Notes 	Drawing No 1
Appendix G	Queensland Parks & Wildlife Service Facilities Manual <ul style="list-style-type: none"> Pedestrian Entry (Kissing Gate) Type 3b 	PE 3b.1
Appendix H	Nikkon Galaxy Led Street Light	
Appendix I	RCC Owners Consent – Trailhead	Email dated 21 August 2020
Appendix J	RCC Owners Consent – Viewing Deck	Email dated 25 September 2020

CONDITIONS OF CONTRACT

AS2124-1992

AND ANNEXURES

Section A – Part 3 Annexure A General Conditions of Contract

Section A – Part 4 Annexure B Special Conditions of Contract

SHALL APPLY TO

TENDER: PDG-43700-1

**TRAILHEAD FACILITY –
REDLANDS COAST EASTERN
HINTERLAND EXPERIENCE**

**ANNEXURE to the Australian Standard
General Conditions of Contract**

PART A

This Annexure is to be attached to the General Conditions of Contract and shall be read as part of the Contract.

The law applicable is that of the State or Territory of: Queensland
(Clause 1)

Payments under the Contract shall be made at: Brisbane
(Clause 1)

The Principal: Redland City Council
(Clause 2) ABN 86 058 829 428

The address of the Principal: Cnr Bloomfield and Middle Streets
Cleveland QLD 4163

The Superintendent: Geoff Briese
(Clause 2) Redland City Council

The address of the Superintendent: Cnr Bloomfield and Middle Streets
Cleveland QLD 4163

The Contractor's licence no.: **Insert Contractor Name in full**
Insert Contractors Address

ABN:
ACN:

Master Builders Association (Qld): **Verify and enter**
QBCC: **Verify and enter**
Electrical: **Verify and enter**
Other: **Verify and enter**

The address of the Site: Lot 1 (SP200199) 605-679 West Mount Cotton Road,
Mount Cotton and Lot 8 (SP243919) 240D Mount View
Road, Mount Cotton

Preconditions to Practical Completion: Contractor to undertake and supply to the
(Clause 2) Superintendent:

- The Contractor shall be responsible for protecting from damage the existing physical elements, services, built infrastructure and make good any damage and pay all costs arising there from
- Removal of all temporary fences (if required), plant, shed and equipment not forming part of the Works
- Works completed in accordance with Section A – Part 5 Project Brief, sub-sections 9 Inspection of Works in Progress/Hold Points, 11 Fit for Purpose, 12 Practical Completion, 13 Defects Liability Period, 14 Final Completion and Appendices issued

- Deeds of Warranties to be delivered to the Principal (clause 29A.1)
- Training/Instruction (clause 29B) [if applicable]
- Final Subcontractors/suppliers list with full contact details and detailing works undertaken and/or items supplied
- Itemised/detailed ~~costed~~ fixtures, fittings and finishes Schedule for asset capture purposes
- Fireweed Free Guarantee (written)
- Completed DHPW Form 1 – Compliance Assessment Application (prior to possession of site)
- ~~One (1)~~ set of full Hydraulic Design
- Completed DHPW Form 15 - Compliance Certificate for building Design or Specification within ten (10) business days of Contract Award
- Completed DHPW Form 16 - Inspection Certificate, Form 11 Certificate of Classification (Commercial Structures) and Form 21 Final Inspection Certificate signed by RPEQ for building and structure works:
 - Viewing platform
 - public amenities
 - shelter

with 1 (one) original signed hard copy set and 1 (one) electronic copy 'As Designed As Constructed' drawings (clause 8.9) for whole of works. Include survey position in AutoCAD 2004 format (Clause 8.9) for:

- viewing platform
- public amenities
- shelter
- Final 'As Constructed' sewerage services drawings
- Final 'As Constructed' water services and hydraulics drawings
- Electrical certification
- A Visual Acceptance survey will be carried out by the Superintendent upon practical completion

Limits of accuracy applying to quantities for which the Principal accepted a rate or rates: (Clause 3.3(b))	Not Applicable
Site Owner: (Clause 3.7)	Redland City Council (City Spaces as Trustee)
Bill of Quantities—the alternative applying: (Clause 4.1)	Alternative 1 – The Bill of Quantities will only apply to the extent that it will be used as a basis for Payment Certification
The time for lodgement of the priced copy of the Bill of Quantities: (Clause 4.2)	Not Applicable
# Contractor shall provide security in the amount of: (Clause 5.2)	5% of the Total Contract Sum is to be held in the form of 2 Bank Cheques or Bank Guarantees for 2.5% of the Contract Sum each 1 x 2.5% Bank Cheque or Bank Guarantee to be returned upon Superintendent approval of Practical Completion (50%); and 1 x 2.5% Bank Cheque or Bank Guarantee to be returned upon Superintendent approval of Final Completion (50%)
# Principal shall provide security in the amount of: (Clause 5.2)	Not Applicable
The period of notice required of a party's intention to have recourse to retention moneys and/or to convert security: (Clause 5.5)	Not Applicable
The percentage to which the entitlement to security and retention moneys is reduced: (Clause 5.7)	50%
The number of copies to be supplied by the Principal: (Clause 8.3)	One (1) copy
The number of copies to be supplied by the Contractor: (Clause 8.4)	Tender document: One (1) original hard copy lodged online on QTender Other documentation is as defined in Section A – Part 5 Project Brief
The time within which the Superintendent must give a direction as to the suitability and return the Contractor's copies: (Clause 8.4)	Ten (10) business days
Work which cannot be subcontracted without approval: (Clause 9.2)	Not Applicable

The percentage for profit and attendance: (Clause 11(b))	10%
The amount or percentage for profit and attendance: (Clause 11(c))	Not Applicable
Excepted latent conditions: (Clause 12.1)	Excepted latent conditions are defined in Annexure Part B Clause 12.1
Approvals to be obtained by the Principal: (Clause 14.5)	Nil
Insurance of the Works—the alternative applying: (Clause 18)	Alternative 1 For the amount not less than the sum of the Contract plus other conditions stated
The assessment for insurance purposes of the costs of demolition and removal of debris: (Clause 18(ii))	Ten per cent (10%) of the Total Contract Sum
The assessment for insurance purposes of consultants' fees: (Clause 18(iii))	Ten per cent (10%) of the Total Contract Sum
The value of materials to be supplied by the Principal: (Clause 18 (iv))	Nil
The additional amount or percentage: (Clause 18(v))	Not Applicable
The amount of motor vehicle insurance (combined limit): (Clause 18A)	Unlimited
The amount of marine insurance (combined limit): (Clause 18B)	Not Applicable
Public Liability Insurance—the alternative applying: (Clause 19)	Alternative 1 (Insurance to be in both names – Principal and Contractor). Must cover the Principal, the Contractor, the Superintendent, and all Subcontractors employed in relation to the contract
The amount of Public Liability Insurance shall be not less than: (Clause 19)	Twenty Million Dollars (A\$20,000,000) per claim
The Contractor's Key personnel: (Clause 25)	(a) Construction/Project Manager/Site Foreman: TBC upon tender submission (b) Contract Manager: TBC upon tender submission (c) Workplace Health & Safety Officer: TBC upon tender submission (d) RPEQ Drawings and certification:

TBC upon tender submission

The time for giving possession of the Site: (Clause 27.1)	Ten (10) Days on the condition that the required documentation as required under the Contract is received by the RCC Superintendent and deemed satisfactory
Hours and days on which the Contractor can access the Site (clause 27.1B(d)):	The hours of operation for the construction of the Works (i.e. operation of any machinery and/or other equipment) shall be restricted to: Monday to Friday between 7.00am and 6.00pm (unless specified in permit conditions) Saturday 7am to 5pm with prior written approval from the Superintendent. No Works shall be undertaken on Sundays or Public Holidays
Special warranties: (Clause 29A)	As specified in Section A – Part 5 Project Brief and AS2124-1992 Annexure Part B Special Conditions of Contract
Commissioning Requirements: (Clause 31A.1)	As specified in Section A – Part 5 Project Brief and tender documents forming part of this Contract
The Date for Practical Completion: (Clause 35.2)	Friday 26 March 2021 (or in accordance with Contractor's Construction Program/Program of Works approved by the RCC Superintendent)
Liquidated Damages per day: (Clause 35.6)	One Thousand, Six Hundred and Seven Dollars and Seventy Six Cents (\$1,607.76) per day
Limit of Liquidated Damages: (Clause 35.7)	Not Applicable
Bonus per day for early Practical Completion: (Clause 35.8)	Not Applicable
Limit of bonus: (Clause 35.8)	Not Applicable
Extra costs for Delay or Disruption: (Clause 36)	Not Applicable
The Defects Liability Period: (Clause 37)	Fifty-Two (52) weeks
The Charge for overheads, profit, etc. for Daywork: (Clause 41(f))	Not Applicable
Times for Payment Claims: (Clause 42.1)	(a) Monthly on the last working day of each month until practical completion; (b) At practical completion; and

(c) At the expiry of the last defects liability period.

Contractors claim for payment shall be computed from the date of the receipt of the invoice. Council shall pay in accordance with the *Building Industry Fairness Act (BIF)* terms upon receipt of a valid and correctly submitted invoice.

Unfixed Plant and Materials for which payment claims may be made notwithstanding that they are not incorporated in the Works:
(Clause 42.1(ii))

None

Retention Moneys on:
(Clause 42.3)

Not applicable

Unfixed Plant or Materials—the alternative applying:
(Clause 42.4)

Alternative 3

The rate of interest on overdue payments:
(Clause 42.9)

Six per cent (6%)

The delay in giving possession of the Site which shall be a substantial breach:
(Clause 44.7)

One Hundred and Twenty (120) Days

The alternative required in proceeding with dispute resolution:
(Clause 47.2)

Alternative 1

The person to nominate an arbitrator:
(Clause 47.3)

Chairperson or acting chairperson of the Australian Institute of Mediators and Arbitrators (Queensland Chapter)

Location of Mediation:
(Clause 47.3)

Brisbane, Queensland, Australia

AS2124-1992

REDLAND CITY COUNCIL

ANNEXURE PART B SPECIAL CONDITIONS to AS2124-1992

TENDER: PDG-43700-1

TRAILHEAD FACILITY – REDLANDS COAST EASTERN HINTERLAND EXPERIENCE

The Principal and the Contractor agree:

- (a) these Annexure Part B [Special Conditions] shall be read with AS2124-1992 (“**AS2124**”) General Conditions of Contract;
- (b) references in these Special Conditions or in AS2124 to Annexures or Items shall be taken to be references to the Special Annexures;
- (c) the terms of AS2124 are amended as follows.

The headings and numbers that appear in bold in the following pages are references to the clause headings and clause numbers that are amended by these Special Conditions.

1. Construction of Contract

Delete the following words from the first paragraph:

"agreement to arbitrate and the conduct of any arbitration or".

2. Interpretation

Add after the end of **Bill of Quantities'** definition, the following:

'BIF Act' means the *Building Industry Fairness (Security of Payment) Act 2017 (Qld)* and any of its regulations;

'Business Day' means any day that is not:

- (a) a Saturday, Sunday, bank or public holiday or a special holiday in Redland City; and
- (b) for the purposes of clause 42, occurring in the period between 22 December and 10 January (inclusive).

Add to the end of the definition of **"Date of Acceptance of Tender"**, the following:

"or if there has been no written notice of acceptance of tender, then the date the Contract is entered into by the parties".

Delete the words **"arbitration or"** where they appear in the definition of **"Date for Practical Completion"** and **"Date of Practical Completion"**.

Add after the end of the definition of **'Drawings'** the following:

'Final Certificate' has the meaning given to it in clause 42.8 and is also a payment schedule.

'Final Payment Claim' has the meaning given to it in clause 42.7 and is also a payment claim.

Add after the end of the definition of **'person'**, the following:

'payment claim' has the meaning given to it in the BIF Act and includes a Final Payment Claim.

'payment schedule' has the meaning given to it in the BIF Act and includes a Final Certificate.

Add to the end of the definition of **"Practical Completion"**, the following:

- "(d) the Contractor has provided to the Superintendent any approvals, consents or certificates relating to and necessary for the completion, use or occupation of the Works (other than those expressly required to be obtained by the Principal under the Contract);
- (e) the Contractor has provided to the Superintendent each of the documents required to be provided under the Contract as a precondition to Practical Completion;
- (f) the Contractor has successfully completed to the satisfaction of the Superintendent, all commissioning required by the Contract;
- (g) the Contractor has removed all rubbish and surplus material from the Site;
- (h) the Works or any relevant part of the Works are accepted as completed by all relevant municipal, public or other statutory authorities ("**Authorities**"); and
- (i) any other conditions which the Contract requires to be satisfied as a precondition to Practical Completion, have been satisfied;"

Add after the end of **'Temporary Works'** definition, the following:

'Utility Service' means any utility service, including water, treated water, electricity, gas, LPG, telephone, drainage, waste, sewerage and electronic communications (including fibre optic feeds or cables).

3. Nature of Contract

Add to the end of Clause 3.1, the following:

"The Contract Sum and any rates to be applied in calculating the Contract Sum (together with any additions or deductions expressly provided for by the Contract):

- (a) Includes all costs, expenses, fees and charges incurred by the Contractor in performing all of its obligations under the Contract; and
- (b) Will not be subject to any adjustment for rise and fall in costs."

Add after Clause 3.3, the following clauses:

"3.4 Contractor's Warranties

The Contractor warrants that:

- (a) it is suitably skilled, qualified and experienced to execute and complete the work under the Contract;
- (b) it will at all times exercise due skill, care and diligence in the execution and completion of the work under the Contract;
- (c) it has obtained all necessary information as to risks, contingencies and other circumstances which could have an effect on the performance and cost of executing the work under the Contract and the restrictions with which the Contractor must comply on Site;
- (d) it has informed itself completely of the nature of the work and materials necessary for the execution of the work under the Contract and the means of access to and facilities at the Site and the transport facilities for deliveries to or from the Site and the suitability of any work methods it proposes to use for the Works;
- (e) it has informed itself of all requirements of authorities in relation to the Works generally, including any measures which are necessary to protect the environment from any adverse effect or damage arising from execution of the work under the Contract; and
- (f) it has obtained all appropriate professional and technical advice on all matters and circumstances in respect of the matters referred to in this Clause prior to executing this Contract.

3.5 Warranties Unaffected

The Contractor acknowledges and agrees that:

- (a) the warranties in Clause 3.4 and the Contractor's other guarantees, warranties, obligations and liabilities under the Contract remain unaffected; and
- (b) the Contractor will bear and continue to bear all liability and responsibility in accordance with the Contract for the execution and completion of the work under the Contract, notwithstanding any one or more of the following:
 - (i) any receipt or review of, or comment or direction on, or rejection or approval of, or expression of satisfaction or dissatisfaction, or permission to use or deemed permission to use in relation to any other document provided by the Contractor,
 - (ii) the making available to or the provision to the Contractor by or on behalf of the Principal or the Superintendent of any information;
 - (iii) any variation under Clause 40 or any refusal by the Superintendent to direct a variation under that Clause.

3.6 No Duty of Care or Liability Imposed

No review, comment, approval, consent, rejection, refusal, permission to use, deemed permission to use, permission to proceed, expression of satisfaction or dissatisfaction, supervision or superintendence by or on behalf of the Principal or the Superintendent concerning any document provided by the Contractor or any aspect of the work under the Contract, nor any failure by the Principal or the Superintendent to do any of those things, shall:

- (a) limit or exclude any obligation or liability of the Contractor;
- (b) prejudice any of the Principal's rights against the Contractor;

- (c) impose on the Principal or the Superintendent any duty of care to the Contractor (whether in contract or in tort);
- (d) result in the Principal or the Superintendent assuming any responsibility or liability for:
 - (i) the adequacy, quality, compliance or fitness of the Works or of any document provided by the Contractor; or
 - (ii) any errors in or omissions from any document or the Works; or
- (e) constitute an admission that the Principal, the Superintendent or any of their agents or employees have checked any document or work for errors, omissions or compliance with the requirements of the Contract.

3.7 Obligations to benefit Site Owner

- (a) In this Contract, "**Site Owner**" means each of the entities set out in Annexure A, Part A being an entity owning or having an interest in the Site or part of the Site. If no entities are named in Annexure Part A, this clause does not apply.
- (b) The Contractor agrees:
 - (i) to indemnify the Site Owner in the terms of all indemnities given by the Contractor to the Principal under the Contract;
 - (ii) to ensure that all policies of insurance required to be effected by the Contractor under the Contract, are also effected in the name of each entity comprising the Site Owner as a separate insured party (with the exception of insurance for the Contractor's employees and workers and the Contractor's motor vehicles); and
 - (iii) to ensure that all warranties to be provided by the Contractor to the Principal in writing also name the Site Owner as an additional party benefiting from the warranties."

4. Bill of Quantities

Delete Clause 4.4.

5. Security

Add at the end of clause 5.1, the following:

'and for the purposes of providing security of payment to subcontractors of the Contractor (as those terms are defined in the BIF Act).'

Delete Clause 5.3 and replace with the following:

"The security shall be:

- (a) in the form of an unconditional undertaking; and
- (b) given by a financial institution or insurance company, as approved by the Principal, in its absolute and sole discretion.

The Contractor shall pay all costs (including all stamp duty or other taxes) of and incidental to providing the security."

Replace the reference to 28 days in Clause 5.4 with 14 days.

Delete Clause 5.5 and replace with the following:

"5.5 Recourse to Retention Monies and Conversion of Security

The Principal may, in its absolute discretion, convert into money at any time any security and may have recourse to the whole or any part of the security or retention moneys whenever the Principal:

- (a) claims it has become entitled to exercise a right under the Contract in respect of the security or retention moneys; or
- (b) claims that moneys are owing to it by the Contractor whether under this Contract, as damages for a breach of this Contract by the Contractor or otherwise at law; or

- (c) must comply with obligations under Chapter 4 of the BIF Act; or
- (d) is otherwise entitled at law to have recourse to the retention moneys or security, and the Principal will not be liable in any way for any loss occasioned by that action.

Without limiting the unconditional nature of retention moneys or the security, the Contractor:

- (a) acknowledges that the Principal may have recourse to retention moneys and/or any security and may convert into money any security held under the Contract at any time.

Add to the end of Clause 5.7, the following:

"If the value of Security or retention money (separately or cumulatively) held by the Principal after Practical Completion is in excess of 2.5% of the Contract Sum, the Contractor acknowledges and agrees that for the purposes of section 67N of the Queensland Building and Construction Commission Act 1991 (Qld), the amount in excess of 2.5% of the Contract Sum after practical completion of the building work is reached is not held to correct Defects during the Defects Liability Period but is to ensure due and proper performance of the Contract and to compensate the Principal for any damage it may suffer as a result of a breach of this Contract by the Contractor."

Delete Clause 5.9 and replace with the following:

"5.9 Interest on Security and Retention Monies

The Principal:

- (a) shall own any interest earned on any moneys resulting from the conversion into money of any security provided by the Contractor or on the retention moneys held pursuant to the Contract; and
- (b) shall not hold or retain any such moneys, retention moneys or interest upon trust for the Contractor or upon any other trust and the Contractor shall not have any beneficial interest in such moneys, retention moneys or interest; and
- (c) shall not be obliged to invest any such moneys, retention moneys or interest or to account for any advantage derived through holding or retaining such moneys, retention moneys or interest or to hold any such moneys, retention moneys or interest in a separate or any particular account."

Add after Clause 5.10, the following clauses:

"5.11 Quantum of Security and Retention Moneys

This Contract is not subject to the condition that would otherwise be implied by section 67K(2) of the *Queensland Building and Construction Commission Act 1991* (Qld). Section 67K(2) implies a condition into building contracts that the total value of Security and retention moneys is not to be more than 5% of the contract price, unless the contract expressly provides otherwise. Under this Contract, the quantum of security and retention moneys to be provided by the Contractor is governed by the terms of this Clause 5 and Clause 42.

Initialled for and on behalf of the Contractor

Initialled for and on behalf of the Principal

5.12 Retention of Security

Despite any other provision of the Contract:

- (a) the Principal may continue to hold security where the Contract may otherwise require it to be released or after termination of the Contract for any reason to the extent of any amount claimed by the Principal under or in connection with the Contract (whether liquidated or otherwise);
- (b) where the Contract is terminated by reason of the Contractor repudiating the Contract, being in substantial breach of the Contract, or having an event referred to in clause 44.11 occur in respect of it, the Principal may have immediate recourse to the security after termination for any claim to money which the Principal may have against the Contractor whether for damages (including liquidated damages) or otherwise; and
- (c) where the Contract is terminated in circumstances other than those referred to in sub-clause (b), the Principal may have recourse to the security after termination where the Contractor fails to pay any amount which becomes due to the Principal within the agreed period for payment, or if no period is agreed, within 14 days."

5.13 No Payment Until Security Lodged

The Principal may refuse to make any payment otherwise due to the Contractor until the Contractor has fully complied with its obligations to lodge security under Clause 5.2."

6. Evidence of Contract

Delete the first paragraph of Clause 6.2.

Add to the end of Clause 6.2 the following:

"Notwithstanding any other provision of this Contract, the Principal shall not be obliged to make any payment to the Contractor until the Contractor executes and returns to the Principal the Formal Instrument of Agreement submitted to it pursuant to this Clause 6.2."

7. Service of Notices

Delete Clause 7 and replace with the following:

"Notice will be taken to be given or made:

- (a) in the case of delivery in person, when delivered;
- (b) in the case of delivery by post, two Business Days after the date of posting;
- (c) in the case of delivery by fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax machine number or name of recipient and indicating that the transmission has been made without error; and
- (d) in the case of delivery by email, when the sender receives an email receipt or other confirmation from the recipient to the sender which indicates that the email was received at the email address of the recipient,

but if the result is that a notice would be taken to be given or made on a day that is not a Business Day in the place to which the notice is sent or is later than 4pm (in that place) it will be taken to have been given or made at the commencement of business on the next Business Day in that place.

Any party may change the address, facsimile number or email address to which notices can be sent to that party by informing the other parties of such change in accordance with this Clause.

Any notice given to the Contractor's representative shall be deemed to have been given to the Contractor."

8. Contract Documents

Delete the second paragraph of Clause 8.1.

Add to the end of Clause 8.1, the following:

"The Contractor agrees:

- (a) it has fully audited all documents forming part of the Contract and all documents relevant to the carrying out of the work under the Contract or completion of the Works provided or made available to the Contractor prior to the Date of Acceptance of Tender ("**Construction Documents**"); and
- (b) it will immediately upon receipt by it of any further documents relevant to the carrying out of the work under the Contract or completion of the Works ("**Additional Construction Documents**") carry out a full audit of the Additional Construction Documents, for the purposes of satisfying itself that the Construction Documents and Additional Construction Documents are:
 - (i) adequate and sufficient for the Contractor to carry out the work under the Contract and complete the Works in accordance with the Contract; and
 - (ii) not inconsistent with each other and that none of the documents contain inconsistencies or ambiguities within them.

The Contractor shall not be entitled to any claim for an extension of time or adjustment to the Contract Sum or any other claim arising from:

- (i) any inconsistency, ambiguity, discrepancy or inadequacy in the Construction Documents or any direction given by the Superintendent under this clause in relation to the Construction Documents; or

- (ii) any inconsistency, ambiguity, discrepancy or inadequacy in any Additional Construction Documents or any direction given by the Superintendent under this clause in relation to the Additional Construction Documents, to the extent that the Contractor has not notified the Superintendent of the inconsistency, ambiguity, discrepancy or inadequacy within 7 days after receipt by the Contractor of the Additional Construction Documents and before the Contractor relies on the Additional Construction Documents in connection with the carrying out of the work under the Contract."

Add to the end of Clause 8.3, the following:

"Without limiting its other obligations under this clause, the Contractor must not:

- (a) disclose to any person; or
- (b) use for any purpose other than the carrying out of the work under the Contract, any of the contents of the Contract or any other information obtained by the Contractor in the course of or in connection with it carrying out work under the Contract unless:
 - (i) the Principal has given its prior consent in writing; or
 - (ii) such disclosure or use is required by law.

The Contractor's obligations under this clause apply after the issue of a final certificate or termination of the Contract for any reason."

Add after Clause 8.7, the following:

"8.8 Principal-Supplied Information

In this clause, "**Principal-Supplied Information**" means any information (whether documented or otherwise) supplied or made available to the Contractor by or on behalf of the Principal before or after the Date of Acceptance of Tender. It does not include information in documents forming part of the Contract.

The Contractor agrees:

- (a) unless the Principal expressly agrees otherwise in writing, any Principal-Supplied Information:
 - (i) has been or will be provided only for the Contractor's convenience; and
 - (ii) has not been and will not be relied upon by the Contractor for any purpose (including entering into the Contract or performing its obligations under the Contract);
- (b) the Principal does not:
 - (i) assume any responsibility or duty of care in respect of; or
 - (ii) warrant, guarantee or make any representation as to, the Principal-Supplied Information (including its accuracy, completeness or adequacy for the purposes of the Contract);
- (c) the Principal shall not be liable to the Contractor in contract, tort, equity, under statute or otherwise arising from or in connection with the Principal-Supplied Information, the provision of the Principal-Supplied Information or the non-provision of any other information by the Principal; and
- (d) except as expressly provided by the Contract, the Contractor shall not be entitled to any extension of time, adjustment to the Contract Sum or other claim arising from or in connection with the inaccuracy, incompleteness or inadequacy of the Principal-Supplied Information.

8.9 As Built ('As Constructed') Drawings

As a pre-requisite to achieving Practical Completion, the Contractor shall supply to the Superintendent one (1) complete set of 'As Constructed' drawings showing the levels, lines, positions and dimensions of the Works as built. The 'As Constructed' drawings shall be provided both as 1 (one) hard copy set and 1 (one) electronic set in the format detailed in the Project Brief or as directed by the Superintendent.

9. Assignment and Subcontracting

Delete the following words which appear in Clause 9.2:

"which approval shall not be unreasonably withheld,"

Add to the end of Clause 9.2:

"For the avoidance of doubt, the Superintendent shall not be required to give the Contractor written notice of approval or of the reasons why approval is not given, unless the Contractor has complied with its obligations under this clause.

The Contractor agrees to assign or novate its rights and obligations in the subcontract to the Principal or a nominee of the Principal and sign any documents required by the Principal to give effect to such assignment or novation if both:

- c) the work is taken out of the hands of the Contractor or the Principal terminates the Contract for any reason; and
- d) the Principal directs the Contractor to do so."

Add to the end of Clause 9.3, the following:

"Any matter within the reasonable control of any subcontractor shall be taken to be within the reasonable control of the Contractor."

11. Provisional Sums

Add to the beginning of Clause 11 the following:

"The Contractor shall:

- (a) provide the Superintendent with the Contractor's estimate of the likely cost of the carrying out or supply by the Contractor of the work or item to which a provisional sum relates when requested to do so by the Superintendent; and
- (b) comply with the reasonable directions of the Superintendent in respect of the subcontracting or procurement of the work or item to which a provisional sum relates."

12. Latent Conditions

Replace Clause 12.1 with the following:

"12.1 Definition

Latent Conditions means:

- (a) All physical conditions of the Site and its near surroundings, including below ground conditions, all natural and artificial things, facilities and Utility Services but excluding weather conditions, which could not have been detected by a skilled, experienced and competent contractor exercising good industry practice and experienced in carrying out work similar to the WUC at sites similar to the Site after:
 - (i) inspecting the Site;
 - (ii) examining any information relevant to the latent conditions which is supplied or made available to the Contract by or on behalf of the Principal whether or not the information comprises part of the Contract and whether the information was provided to the Contractor before or after entry into the Contract; and
 - (iii) making all reasonable enquiries and investigation; and
- (b) any other conditions which the Contract specifies to be latent conditions,

but excluding Excepted Latent Conditions.

"Excepted Latent Conditions" are:

- (a) those conditions identified in the Contract as Excepted Latent Conditions; and
- (b) other conditions or risks for which a provisional sum has been allowed in the Contract.

Replace Clause 12.2 with the following:

"12.2 Notification

The Contractor shall, upon becoming aware of a Latent Condition or an Excepted Latent Condition give the Superintendent a written statement of:

- a) the nature of the Latent Condition or Excepted Latent Condition encountered and in the case of a latent condition, the respects in which it differs materially;
- b) in the case of a Latent Condition, the Contractor's estimate of the additional work necessary to deal with the Latent Condition (including additional time and cost); and
- c) other details reasonably required by the Superintendent,

within 7 days after the Contractor becomes aware of the latent condition or Excepted Latent Condition and (except in an emergency) before the Contractor takes any action to deal with the Latent Condition or Excepted Latent Condition in connection with the carrying out of the work under the Contract (**Latent Conditions Notice**).

If, in the case of a Latent Condition, the Contractor does not comply with the requirements of this clause within the required times, Clause 12.3 shall not apply and the Contractor shall not be entitled to any extension of time, adjustment of the Contract Sum or any other claim in connection with the Latent Condition (including any additional work required by the Latent Condition) or any direction of the Superintendent arising from the Latent Condition.

The Contractor shall promptly provide to the Superintendent in writing any other details regarding a Latent Condition or Excepted Latent Condition requested by the Superintendent."

Replace Clause 12.3 with the following:

"On receipt of the Latent Conditions Notice, the Superintendent shall promptly investigate the Latent Conditions and determine whether any variation is necessary and if so, shall take action in accordance with Clause 40.

The giving of the Latent Conditions Notice in accordance with the requirements of Clause 12.2 (including within the specified time) is a condition precedent to any entitlement by the Contractor to Claim in relation to encountering Latent Conditions."

Replace Clause 12.4 with the following:

"12.4 Acceptance of Excepted Latent Condition Risk

The Contractor agrees that:

- (a) the Contractor accepts the risk of all Excepted Latent Conditions; and
- (b) the Contractor shall have no entitlement to any extension of time, valuation under clause 40.5, other adjustment to the Contract Sum or other claim whatsoever arising from the existence of any Excepted Latent Condition (whether or not it should have been anticipated at the time of the Contractor's tender).

Add after Clause 12.4, the following clauses:

"12.5 No Warranty or representation by Principal

Without limiting clause 8.8, the Principal does not warrant, guarantee or make any representation with respect to, and the Contractor warrants that it has not placed any reliance upon, the completeness, accuracy, adequacy or content of any information or data made available or provided to the Contractor as to the Site or sub-surface conditions.

12.6 Site Information not part of Contract

No information in respect of the Site or sub-surface conditions which is provided to the Contractor by the Principal, the Superintendent, or their respective employees, consultants or agents shall form part of the Contract.

13. Patents, Copyright and Other Intellectual Property Rights

Add to the end of Clause 13, the following:

"The Contractor:

- (a) grants to the Principal;
- (b) shall ensure that the person legally entitled to do so grants to the Principal; and
- (c) shall do all reasonable things necessary to give effect to the grant to the Principal,

an irrevocable, royalty free and fully assignable licence to use any designs, materials, documents and methods of working provided by the Contractor for the purposes of construction of, using, maintaining, upgrading, altering or otherwise dealing with the Works.”

14. Statutory Requirements

Add after the first paragraph of Clause 14.1, the following:

“The Contractor shall provide to the Superintendent evidence of its compliance with the requirements of any relevant legislative requirements when requested by the Superintendent.”

Add to the end of Clause 14.2, the following:

“A reduction in cost assessed by the Superintendent may be deducted from the Contract Sum even though the legislative requirement could reasonably have been anticipated by an experienced and competent contractor unless the Contractor has expressly stated in its tender for the Works that the tendered Contract Sum has been based upon the anticipated change in legislative requirement occurring.”

Add after Clause 14.4, the following clauses:

14.5 Contractor to Obtain Approvals

The Contractor shall procure and pay for all certificates, licences, consents, permits and other approvals:

- (a) necessary for the lawful carrying out of the work under the Contract; or
 - (b) relating to the completion, occupation or use of the Works,
- other than the certificates, licences, consents, permits and other approvals expressly referred to in the Contract as being the responsibility of the Principal.”

14.6 Workplace Health and Safety Act

For the purposes of Clause 14.6, the words "dangerous event", "principal contractor", "serious bodily injury", "work-caused illness" and "work injury" have the meanings assigned to them by the *Workplace Health and Safety Act 2011* (the "Act").

The Contractor will be appointed as the Principal Contractor for this project under *section 293* of the *Workplace Health and Safety Regulations 2011*. Principal Contractor duties are specified on the Workplace Health and Safety Queensland website www.worksafe.qld.gov.au

Upon the Date of Acceptance of Tender

- (a) the Principal is deemed to have appointed the Contractor to be the Principal Contractor pursuant to Section 13 of the Act;
- (b) the Contractor is deemed to have accepted the appointment; and
- (c) the Contractor, in respect of the work to be executed under the Contract, becomes responsible for the performance of the principal contractor's functions under the Act and under the Regulations and compliance standards in force under the Act.

The Contractor's appointment as Principal Contractor shall continue until the Contractor completes all of the work under the Contract unless sooner revoked by the Principal taking over or terminating the Contract pursuant to any provision of the Contract or according to law.

The Contractor indemnifies the Principal against all liabilities which may be imposed under or which may arise out of enforcement of any section of the Act or Regulations.

The Contractor must notify the RCC Superintendent of every work-caused illness or work injury and of every dangerous event and serious bodily injury which occurs on the Site as soon as possible but not later than 12 hours after such occurrence.

14.7 Taxes, Duties and Charges

Subject to the other provisions of the Contract, the Contractor shall:

- (a) pay and indemnify the Principal against all sales tax, customs duties, stamp duties, goods and services tax and other duties, charges, taxes or imposts payable in connection with the carrying out of the work under the Contract (including the provision of all work under the Contract); and

- (b) provide all security required under any legislative requirement as security for the payment of any duties, charges, taxes or imposts.

14.8 ABN Withholding

- (a) Where the Principal may become obliged under any law or legislative requirement to withhold any amount on account of tax or other imposts from any amount payable to the Contractor under or in connection with the Contract unless certain conditions (including without limitation the provision by the Contractor of an Australian Business Number ("ABN") are met, the Principal may withhold the amount required to be withheld under the law or legislative requirement until the Principal is satisfied in its reasonable opinion that all the relevant conditions have been satisfied.
- (b) If the Principal for any reason becomes liable to pay an amount referred to in paragraph (a):
- (i) the amount paid by the Principal to any Commonwealth, State or Local Government department, body, instrumentality or other government, authority or statutory body shall be taken to have been paid by the Principal to the Contractor on account of and in satisfaction of amounts payable under the Contract; and
 - (ii) if the amount paid by the Principal exceeds any amounts payable by the Principal to the Contractor under the Contract, the amount of the excess shall be a debt due from the Contractor to the Principal.

14.9 Portable Long Service Leave Levy and other levies

The Principal shall pay any all levies and fees required by any legislative requirement to be paid by a "principal" under a contract for construction or building work (including, Portable Long Service Leave Levy and Workplace Health and Safety Fee). The Contractor shall not be required to reimburse the Principal for such moneys irrespective of any other provision under this Contract.

14.10 Environmental Protection

The Contractor shall:

- (a) take all action necessary to protect and preserve the environment from harm or damage arising from or in connection with the carrying out of the work under the Contract;
- (b) comply with all:
- (i) legislative requirements relating to the protection or preservation of the environment; and
 - (ii) environmental management plans provided by or on behalf of the Principal to the Contractor or provided by the Contractor and approved by the Principal;
- (c) obtain all approvals or licences required and pay and indemnify the Principal against all fees, fines or other amounts payable under all environmental protection or preservation legislative requirements (including in connection with any applicable approvals or licences); and
- (d) to the maximum extent permitted by law, indemnify and keep indemnified the Principal and its employees and agents against all claims, demands, actions, costs (including legal costs), charges, expenses, damages, loss or other liability (including without limitation in tort, under any law, in respect of making good environmental damage or in defending claims) arising from or contributed to by:
- (i) acts or omissions of the Contractor, its employees, its subcontractors or their employees (whether wilful, negligent or otherwise);
 - (ii) breach by the Contractor of its obligations under this Clause; or
 - (iii) the carrying out of the work under the Contract.

14.11 Fire Ants

Without limiting the generality of Clause 14.1, the Contractor shall:

- (a) in executing the work under the Contract, comply with any direction given by an inspector under the *Biosecurity Act 2014* or the *Biosecurity Regulation 2016*;
- (b) in executing the work under the Contract, obtain and comply with any approvals required under the *Biosecurity Act 2014* or the *Biosecurity Regulation 2016*;

- (c) in executing the work under the Contract, comply with Council's Environmental Management System obligations, activities and permit requirements. Please contact Council's EMS Co-ordinator on (07) 3829 8571 to discuss;
- (d) if Fire Ants are discovered, or their presence is suspected:
- (i) immediately cease all work in the area affected or suspected to be affected by Fire Ants. Work in the affected area shall not be re-commenced until the Contractor is directed to do so by the Superintendent;
 - (ii) report the presence or suspicion of Fire Ants to the Department of Agriculture and Fisheries:
 - (A) in the first instance by telephoning **13 25 23** within 24 hours of discovery of the presence of Fire Ants or within 24 hours of becoming suspicious of the presence of Fire Ants; and
 - (B) subsequently in writing within 7 days of discovery of the presence of Fire Ants or within 7 days of becoming suspicious of the presence of Fire Ants;
 - (iii) report the presence or suspicion of Fire Ants to the Principal:
 - (A) immediately upon discovery or upon becoming suspicious of the presence of Fire Ants by telephoning (07) 3403 0999; and
 - (B) subsequently in writing within 7 days of discovery of the presence of Fire Ants or within 7 days of becoming suspicious of the presence of Fire Ants;

For the purposes of this clause, "Fire Ants" has the meaning given by the *Biosecurity Regulation 2016*.

14.12 Industrial Relations

The Contractor shall at its own cost and expense:

- (a) ensure all employees (including employees of subcontractors) carrying out the work under the Contract are employed in accordance with any applicable industrial legislative requirement, award or agreement;
- (b) actively manage and do all things necessary to avoid disputes or disturbance in industrial relations; and
- (c) upon request by the Principal, consult fully with the Principal in connection with any actual or potential industrial dispute or disturbance.

14.13 Cultural Heritage

If any articles considered to be artefacts are identified during the performance of the Works the Contractor shall notify the Superintendent immediately. If the Superintendent directs cessation of activities within the vicinity of the article:

- (a) the Contractor shall make every reasonable effort to continue the Works outside the vicinity. The Contract shall cease work within the vicinity and only resume activities in the vicinity once directed to do so by the Superintendent; and
- (b) the Contractor shall (upon request from the Superintendent) reschedule the Works and submit a revised Construction Program showing how the remaining Works may be completed by the Date for Practical Completion due to the cessation of activities.

Council will organise all cultural heritage requirements and pay for cultural heritage monitor fees. The Contractor shall coordinate and liaise with the cultural heritage monitors during the Works for the purpose of fulfilling the cultural heritage obligations of the Principal.

14A. Building Industry Fairness (Security of Payment) Act

14A.1 Service of Notices under the BIF Act

The Contractor shall:

- (a) ensure that a copy of any written communication it delivers or arranges to deliver to the Principal of whatever nature in relation to the *BIF Act* (including, without limitation, a payment claim), is provided to the Superintendent at the same time; and

- (b) promptly and without delay give the Superintendent a copy of any written communication of whatever nature in relation to the *BIF Act* (including, without limitation, a payment claim) which the Contractor receives from a Subcontractor.

14A.2 Principal's Agent

In responding to the Contractor under the *BIF Act*, the Superintendent also acts as the agent of the Principal.

14A.3 Suspension of Works under the BIF Act

If the Contractor suspends the whole or part of the work under the Contract pursuant to the *BIF Act*:

- (a) the suspension shall not affect the Date for Practical Completion but may be a ground for an extension of time under Clause 35.5;
- (b) the Principal may, in its absolute discretion, take the whole or any part of the work under the Contract out of the hands of the Contractor to ensure that the work under the Contract continues during the suspension; and
- (c) subject to any payment owed under the *BIF Act*, the Principal shall not be liable for and the Contractor agrees it will not suffer any costs, expenses, damages, losses or other liability whatsoever as a result of the suspension or as a result of the Principal exercising its right under clause 14A.3(b).

14A.4 Subcontractor Suspension

If the Principal becomes aware that a Subcontractor is entitled to suspend work (which forms part of the Works) pursuant to the *BIF Act*, the Principal may (in its absolute discretion) pay the Subcontractor such money that is or may be owing to the Subcontractor in respect of that work, and any amount paid by the Principal shall be a debt due from the Contractor to the Principal.

14A.5 Indemnity

The Contractor shall indemnify the Principal, its officers, employees and agents against all damage, expense (including lawyers fees and expenses on an indemnity basis), loss or liability of any nature suffered or incurred by the Principal arising out of:

- (a) a suspension by a Subcontractor of work which forms part of Works pursuant to the *BIF Act*; and
- (b) a failure by the Contractor to comply with its obligations under this Clause 14A.

14A.6 Subcontractors' charges

The Principal may, at any time, pay any amount of the Contract Sum or security (including, but not limited to, retention moneys) directly to a worker or a subcontractor of the Contractor, or into court, if the Principal is required or permitted to do so under the *BIF Act*.

Any amount paid by the Principal pursuant to this clause is deducted from the Contract Sum or the security, and the Contractor will have no recourse against the Principal for any loss suffered due to the Principal acting in accordance with this clause.

14B. Personal Property Securities Act 2009

The words 'Accession', 'Comingled', 'Financial Statement', 'Grantor', 'Personal Property', 'Proceeds', 'Security Interest' and 'Verification Statement' have the meaning given to them in the PPSA.

The parties acknowledge that this Contract may constitute a Security Interest in favour of the Principal.

If the Principal determines that this Contract (or a transaction in connection with it) is or contains a Security Interest, the Contractor agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which the Principal asks and considers necessary for the purposes of:

- (a) ensuring that the Security Interest is enforceable, perfected and otherwise effective;
- (b) enabling the Principal to apply for any registration, complete any Financial Statement or give any notification, in connection with the Security Interest; or
- (c) enabling the Principal to exercise rights in connection with the Security Interest.

The Principal is not required to give any notice under the PPSA (including notice of a Verification Statement) unless the notice is required by the PPSA to be given (even though the parties have waived the right to receive notice).

The Contractor must notify the Principal as soon as the Contractor becomes aware of any of the following:

- (a) if any Personal Property which does not form part of the Principal's Personal Property becomes an Accession to the Principal's Personal Property and is subject to a Security Interest in favour of a third party, that has attached at the time it becomes an Accession;
- (b) if any of the Principal's Personal Property is located or situated outside Australia or, upon request by the Principal, of the present location or situation of any of the Principal's Personal Property; or
- (c) if the Contractor parts with possession of the Principal's Personal Property.

The Contractor must not:

- (a) create any Security Interest or lien over any Personal Property that the Principal has an interest in (other than security interests granted in favour of the Principal);
- (b) sell, lease or dispose of its personal property that the Principal has a Security Interest in;
- (c) give possession to the Contractor's Personal Property that the Principal has a Security Interest in or the Principal's Personal Property to any other person except where the Principal expressly authorises it to do so;
- (d) permit any of the Principal's Personal Property to become an Accession to or Comingled with any asset that is not part of the Works or the Site; or
- (e) change its name without first giving the Principal 15 Business Days' notice of a new name or relocate its Principal place of business outside Australia or change its place of registration or incorporation.

Everything the Contractor is required to do under this Clause 14B is at the Contractor's expense.

Neither the Principal nor the Contractor will disclose information of the kind mentioned in section 275(1) of the PPSA and the Contractor will not authorise, and will ensure that no other party authorises, the disclosure of such information. This Clause 14B does not prevent disclosure where such disclosure is required under section 275 of the PPSA because of the operation of section 275(7)(b), (d) and (e) of the PPSA.

15. Protection of People and Property

Add after the second paragraph of Clause 15, the following:

"Without limiting any of the Contractor's other obligations, the Contractor shall also avoid and minimise disruption or interference in any way with the operations carried on from existing improvements on or about the Site (including without limitation, the operation of tenants or other occupants of existing improvements (if any))."

Add to the end of Clause 15, the following:

"The Contractor shall indemnify the Principal against any costs, damages, loss, claim or liability arising from the Contractor's breach of this clause."

15A. Special Protection Obligations

Add to the end of Clause 15, the following:

"15A Special Protection Obligations

15A.1 Dial Before You Dig

Without limiting the obligations imposed by clause 15, should it be necessary for the Contractor to carry out any excavation work in the course of carrying out the work under the Contract, the Contractor shall:

- (a) before commencing any excavation work, contact the relevant authorities to determine what services (if any) will be affected by the excavation;

- (b) ensure that the excavation work is carried out so as not to damage or interfere with any services in or near the vicinity of the area in which the excavation work is carried out;
- (c) promptly make good any damage to any services as a result of the Contractor's excavation; and
- (d) indemnify the Principal in respect of all demands, claims, costs, expenses, damages and other liabilities arising from the breach of the Contractor of the provisions of this Clause (including without limitation any claim by a provider or user of any services damaged as a result of the Contractor's excavation).

15A.2 Asbestos

Should the Contractor, in the execution of the work under the Contract, discover or suspect the presence of asbestos or other dangerous materials or items, the Contractor shall:

- (a) immediately stop work in the area in which asbestos or other dangerous materials or items are discovered or suspected to exist;
- (b) secure the area in which asbestos or other dangerous materials or items are discovered or suspected to exist;
- (c) report the incident to the Principal; and
- (d) only recommence the work in the affected area when directed to do so by the Principal and in accordance with any requirements of the Principal."

17. Damage to persons and property other than the Works

Add to the end of Clause 17.2, the following:

"except where the claims arose because of any breach, act or omission of the Contractor or its subcontractors".

18. Insurance of the Works

Add to end of Clause 18 (Alternative 1) the following paragraph:

"Upon payment of moneys pursuant to the insurance effected under this Clause:

- (a) the Contractor shall immediately proceed to reinstate the Works and to continue the execution and completion of the work under the Contract;
- (b) the Contractor's entitlement to payment for work performed in reinstating the Works shall not exceed the amount paid by the insurer in respect of the insurance effected under this Clause, but excluding any amounts paid in respect of the insurance effected for the sums referred to in subparagraphs (iii) to (v) of this Clause."

18A. Insurance of Motor Vehicles

Add after Clause 18, the following:

"18A. Insurance of motor vehicles

Before the Contractor commences the work under the Contract, the Contractor shall effect motor vehicle third party bodily injury and property damage liability insurance in respect of all vehicles to be used by the Contractor (whether owned, rented or leased) in connection with the work under the Contract. Unless otherwise notified by the Principal in writing, the combined limit of this insurance shall be as set out in the Annexure Part A.

The insurance shall be maintained at all times that the vehicles are to be used by the Contractor in connection with the work under the Contract or are on the Site.

The Contractor shall ensure that every subcontractor's vehicles are similarly insured.
The provisions of Clause 21 shall also apply to the insurance to be effected under this clause."

21. Inspection and Provisions of Insurance Policies

Add after Clause 21.6, the following:

"21.7 Miscellaneous Insurance Provisions

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The Contractor shall:

- (a) pay all excesses and deductibles under a policy of insurance effected by the Principal or the Contractor under the Contract, unless the claim includes only loss, damage or claims:
 - (i) for which the Contractor is not responsible under the Contract; or
 - (ii) caused by an Excepted Risk as defined in clause 16.3 not caused or contributed to by the Contractor;
- (b) ensure that it:
 - (i) satisfies itself as to; and
 - (ii) complies strictly with,the terms of any policy of insurance effected under the Contract;
- (c) at its own cost and expense effect any additional insurance it considers necessary in connection with the work under the Contract or the Works;
- (d) to the extent directed by the Superintendent, allow the Principal to make, negotiate and settle any insurance claim in which the Principal is interested;
- (e) ensure that any proceeds received from any insurance claim in which the Principal is interested are paid (in priority to any other payments) to compensate the Principal as fully as possible for any loss, damage, claim or other liability of the Principal covered by the policy; and
- (f) despite any other provision of the Contract, accept as full payment for any reinstatement or replacement of the work under the Contract which is the subject of an insurance claim and does not arise from an Excepted Risk defined in clause 16.3 not caused or contributed to by the Contractor, the amount of insurance proceeds recovered by the Principal or the Contractor in respect of that reinstatement or replacement.”

23. Superintendent

Replace the first paragraph of Clause 23 with the following:

“The Principal shall ensure that at all times there is a Superintendent for the purposes of the Contract. The Principal shall endeavour to ensure that the Superintendent performs reasonably and in good faith its functions under clause 35.5 (assessment of extensions of time, except where otherwise noted in that clause), clause 40.5 (valuation of variations), clause 42.1 (issue of payment schedules), clause 42.5 (issue of the Certificate of Practical Completion), clause 42.8 (issue of the Final Certificate) and in making costs assessments.

The Superintendent may carry out its functions under the Contract (other than those referred to in the paragraph above):

- (a) as agent and representative of the Principal; and
- (b) in accordance with instructions given to it by the Principal (acting in its absolute discretion unless the Contract expressly requires otherwise).”

25. Contractor's Representative

Add after Clause 25, the following:

“The Contractor:

- (a) must ensure the key personnel listed in the Contract are engaged in the provision of the work under the Contract in the respective capacities also set out in Annexure Part A;
- (b) must only replace the key personnel:
 - (i) in circumstances of death, serious illness, change of employment or request by the Superintendent; and
 - (ii) with others (having equivalent skill and experience) approved by the Superintendent.”

27. Site

Add after Clause 27.1, the following clauses:

27.1A Access only

Despite any other provision of the Contract, the Contractor is to have only access to the Site and:

- (a) references in the Contract to “possession of” the Site shall be read as “access to” the Site;
- (b) the Contractor shall have no right of exclusive occupation of any part of the Site and shall access the Site only in accordance with the directions of the Superintendent.

27.1B Access to Site

The Contractor shall ensure that the Contractor, its employees, its subcontractors and their employees:

- (a) do not enter upon any place notified by the Principal to the Contractor in writing as a place to which the Contractor is not to have access, without the prior written consent of the Principal;
- (b) have completed such safety or other training or induction as the Superintendent from time to time directs before accessing the Site;
- (c) at all times:
 - (i) keep themselves informed as to the requirements of, comply with and not do anything which may place the Principal in breach of laws or legislative requirements applying to the Site;
 - (ii) comply with all procedures, policies or rules adopted from time to time by the Principal in connection with the Site; and
 - (iii) comply with the directions (if any) given to the Contractor by the Principal or the Superintendent at any time in connection with the Site (including access to and use of the Site);
- (d) only access the Site during the hours and on the days provided for in the Contract; and
- (e) ensure the Site is kept safe and secure.

27.1C Access to Adjoining Properties

The Contractor shall:

- (a) at its own cost, obtain all necessary approvals, permissions and consents for any access to or over or use of any adjoining site or property which may be required for execution of the work under the Contract;
- (b) comply with all conditions attaching to such approvals, permissions and consents; and
- (c) indemnify the Principal against:
 - (i) any claim in respect of personal injury or death or loss of, or damage to the Principal's or any other property in respect of the Contractor's access to, or over, or use of any adjoining site or property; and
 - (ii) any claim, action, cost, expense, damages, loss or liability arising from breach of any condition attaching to any approval, permission or consent referred to in paragraph (a)."

Delete the second and third paragraphs of Clause 27.2.

Add after Clause 27.2, the following clauses:

27.2A Separate Contracts

The Principal shall be entitled to arrange for separate contractors to carry out works (other than the work under the Contract) on the Site on behalf of the Principal (“**Separate Contractors**”) concurrently with the execution by the Contractor of the work under the Contract.

27.2B Separate Contractors

In respect of Separate Contractors:

- (a) the Superintendent shall notify in writing the Contractor of the identity of Separate Contractors;
- (b) the Contractor shall ensure that the work of Separate Contractors is co-ordinated with the work under the Contract as a whole and shall facilitate the execution of the work by Separate Contractors.

The Contractor acknowledges that it shall not be entitled to any claim for an extension of time, adjustment to the Contract Sum or delay costs under clause 36 or otherwise in respect of any delay arising as a result of any failure to co-ordinate the work under the Contract with the work performed by Separate Contractors;

- (c) the Contractor shall be responsible for any damage to the Works caused by an act or default of Separate Contractors to the extent the Contractor has failed to comply with paragraph (b); and
- (d) the Contractor shall make available for use by Separate Contractors all facilities and services which are otherwise provided by the Contractor in connection with the work under the Contract and the Contractor shall co-operate with the Superintendent and Separate Contractors in the use of such facilities."

27A. Site Meetings

Add after clause 27, the following clauses:

"27A. Site meetings

27A.1 Attendance at site meetings

The Contractor shall ensure that it is represented at any project or site meetings required by the Superintendent or Principal ("Site Meetings") to openly discuss all matters relevant to the Works and progress of the work under the Contract which may be convened by the Principal or Superintendent by reasonable notice to the Contractor.

27A.2 Minutes of meeting

Minutes of each Site Meeting may be kept by the Superintendent and issued to the Contractor as soon as possible thereafter. If the Contractor does not agree with the accuracy of the minutes, it shall notify the Principal of the inaccuracy within 48 hours of receipt of the minutes. Failure to so notify, will be deemed acceptance by the Contractor of the minutes as a true and accurate record of the Site Meeting.

27A.3 No direction

Notwithstanding the recording of the minutes of any Site Meeting, no resolution or communication at any Site Meeting (nor minutes recording any resolution or communication) shall constitute a direction as defined in Clause 23 unless and until a separate direction is given to the Contractor by the Superintendent in writing."

29. Materials, labour and construction plant

Add to the end of clause 29.1, the following:

"The Contractor must ensure all materials, machinery or equipment used on the Site complies with all relevant legislative requirements, Codes of Practice and Australian Standards.

The Contractor shall upon request by the Superintendent, notify the Superintendent in writing of the name and address of the owner of any construction plant used in connection with the work under the Contract and held by the Contractor under an agreement with the owner of the construction plant. The Principal may, in order to avoid seizure by the owner of such construction plant, pay to the owner the amount of any overdue installment or other sums payable under such agreement. In the event of the Principal doing so, the Principal may recover such amount as a debt due from the Contractor."

29A. Warranty Requirements

Add after clause 29, the following clauses:

"29A. WARRANTY REQUIREMENTS

29A.1 Special Warranty Requirements

The Contractor shall deliver to the Principal before Practical Completion deeds of warranties in a form acceptable to the Superintendent:

- (a) from the suppliers or subcontractors;
- (b) in respect of the items or work; and
- (c) for the periods,

set out in the Contract ("Special Warranties").

The Special Warranties must be in the name of each of the Principal, the Site Owner and the Contractor as beneficiaries.

29A.2 Warranties

Without limiting the requirements of Clause 29A.1, the Contractor shall ensure that all warranty entitlements arising from the work under the Contract and the goods and materials incorporated in the Works include the Principal and the Contractor as named beneficiaries. Such warranties shall be in a form approved by the Superintendent and shall be submitted to the Superintendent prior to the issue of the Final Certificate."

29B. Training and Instruction

Add after clause 29A, the following:

"29B. TRAINING AND INSTRUCTION

If the Contractor is required to provide any training or instruction to the Superintendent, the Principal or employees or contractors of the Principal in connection with the Works, the Contractor shall:

- (a) ensure that all training or instruction is:
 - (i) carried out by suitably qualified and skilled persons who are familiar with the operation, use and maintenance of the plant or equipment; and
 - (ii) designed to meet the requirements of the trainee; and
- (b) provide the training or instruction prior to (and as a pre-condition to the achievement of) Practical Completion being achieved."

30. Quality

Add to the end of Clause 30.1, the following:

"Where the Contract or any direction by the Principal or Superintendent:

- (a) nominates or describes (by a proprietary or brand name, model number or other specific means) any material or component to be used in connection with the work under the Contract; or
- (b) nominates or describes the design, manufacturer or place of manufacture for any material, component or sub-assembly to be used in connection with the work under the Contract,

then:

- (I) such nomination or description shall in no way relieve, limit or exclude any of the Contractor's obligations or liabilities under or in connection with the Contract; and
- (II) the Contractor shall obtain the prior consent of the Superintendent to any change to or deviation from such nomination or description."

Delete the second sentence of Clause 30.5.

Add to the end of Clause 30.5 the following clauses:

"In that event the Contract Sum shall be decreased by the greater of the following as assessed by the Superintendent:

- (a) the cost of remedying the material of work valued under Clause 40.5; or
- (b) the resulting decrease in the value of the Works and any other loss which the Principal is likely to suffer, including the likely increase in operational and maintenance costs which shall be incurred by the Principal if it accepts the material or work."

Add to the end of Clause 30 a new Clause 30A, as follows:

"30A Non-conforming Building Products

Terms defined in the *Queensland Building and Construction Commission Act 1991 (Qld) (QBCC Act)* and used in this clause 30A have the same meaning given to them in the QBCC Act.

The Contractor must, in performing the work under the Contract and completing the Works:

- (a) comply with, and cause all its officers, employees, agents and subcontractors to comply with, the obligations set out in Part 6AA of the QBCC Act in relation to non-conforming building products; and
- (b) immediately notify the Principal if it becomes aware, or reasonably suspects, that a product being used, or planned to be used, is a non-conforming building product.

The Contractor must indemnify and hold harmless the Principal from and against any claim or loss in connection with or arising out of (either directly or indirectly) the failure of the Contractor or its officers, employees, agents and subcontractors to comply with the obligations pursuant to this clause 30A, or the obligations under Part 6AA of the QBCC Act.

31. Examination and Testing

Add after Clause 31.8, the following clauses:

“31.9 Access to Superintendent for Testing

The Contractor shall ensure the Superintendent and its agents and employees are allowed access to any place where any part of the Works is situated or any the work under the Contract is being carried out (including at a location other than the Site or the Contractor’s premises), for the purpose of inspection and testing.

“31.10 Results of Tests

A satisfactory inspection or test of any part of the Works or the work under the Contract by the Superintendent or the Principal shall not constitute evidence of the Contractor having satisfactorily complied with the Contract, and shall not prejudice or relieve the Contractor from any of its obligations or liabilities under or in connection with the Contract.”

31A. Commissioning

Add after Clause 31, the following clauses:

“31A. COMMISSIONING

31A.1 Commissioning Program

The Contractor shall:

- (a) prepare and submit to the Superintendent a detailed commissioning program (including commissioning procedures necessary to establish that performance of the Works (or a part thereof) meets the requirements of the Contract) for those parts of the Works described in Annexure Part A (in a form satisfactory to the Superintendent); and
- (b) obtain the Superintendent’s approval in writing to the commissioning program in sufficient time prior to the Date for Practical Completion to enable the commissioning program to be satisfactorily completed prior to the Date for Practical Completion.

31A.2 Commissioning by Contractor Prior to Practical Completion

The Contractor agrees:

- (a) the successful commissioning of the Works to establish that the performance of the Works (or a part thereof) meets the requirements of the Contract shall comprise tests to be carried out and passed before the Works reach Practical Completion;
- (b) all commissioning shall be carried out in accordance with good engineering practice and shall conform to the requirements of the relevant Australian Standards;
- (c) the Contractor shall ensure that results of all commissioning are recorded and submitted to the Superintendent as and when requested by the Superintendent;
- (d) the Contractor shall give the Superintendent reasonable prior notice of the carrying out of any part of the commissioning required by the commissioning program; and
- (e) the Contractor shall immediately notify the Superintendent if any portion of the Works fails to pass a commissioning requirement and, at the Contractor’s cost, make good that portion and after completion of the remedial work promptly carry out further commissioning of that portion.”

32A. Superintendent may direct working hours

Add after Clause 32, the following:

“32A. Superintendent may direct working hours

Despite clause 32, the Superintendent may at any time direct the Contractor as to different hours and days during which the Contractor may execute the work under the Contract and the Contractor shall not execute the work under the Contract outside those hours or days except in an emergency (in which case the Contractor shall notify the Superintendent in writing of the circumstances as early as possible).

The Superintendent’s direction under this clause shall be taken to be a direction given under Clause 33.1.”

33. Progress and Programming of the Works

Add to the end of Clause 33.1 the following:

"No direction by the Superintendent shall constitute a direction under this Clause unless the direction is in writing and expressly states that it is a direction under this Clause or is deemed to be such a direction pursuant to clause 32A."

Delete the third and final paragraphs of Clause 33.2.

Add to the end of Clause 33.2 the following:

“The Contractor’s construction program shall commence on the Date of Acceptance of Tender and shall:

- (a) incorporate the following criteria:
 - (i) the work under the Contract shall be broken down into activities of sufficient specificity to enable accurate assessment of progress and the effects of delays to be made;
 - (ii) clearly defined critical paths shall be shown;
 - (iii) relationships between activities shall be sufficient in number to clearly indicate the intended sequence of work and shall show all dependencies dictated by constructability and the availability of labour or equipment resources;
 - (iv) off-site procurement activities shall be shown, including but not limited to:
 - (A) preparation, submission and approval of all relevant drawings; and
 - (B) order, manufacture and delivery periods for materials, plant and equipment;
 - (v) deadlines for selections or approvals by the Superintendent or the Principal shall be shown;
 - (vi) the lead times for the supply of all drawings and information relating to significant activities;
 - (vii) approval dates required from Authorities;
 - (viii) turnaround times required for submission and examination of all relevant drawings;
 - (ix) supply times for any essential materials and major items of plant;
 - (x) all on and off Site activities;
 - (xi) testing requirements;
 - (xii) commissioning program
 - (xiii) inspection of the Works, preparation of a defects list and rectification of defects prior to practical completion;
 - (xiv) quality assurance inspections and approvals prior to practical completion; and
 - (xv) dates for placing orders for standard components;
- (b) be revised by the Contractor at the Contractor’s own cost and expense and submitted to the Superintendent at monthly intervals or whenever the Contractor falls 7 days behind the construction program;
- (c) be in an electronic form approved by the Superintendent and issued in hard copy to the Superintendent;
- (d) be in such detail so as to advise the Superintendent of the details specified in this Clause 33;
- (e) as a minimum indicate early start and finish dates and the duration of the Contractor’s float;
- (f) incorporate a separate program for each separable portion of the Works;
- (g) be in sufficient detail to enable the Superintendent to integrate the work of others;
- (h) clearly demonstrate the Contractor’s ability to meet the Date for Practical Completion; and

- (i) indicate all resources, including human resources to be employed on the Contract throughout its duration.

The Contractor shall make available any documentation reasonably requested by the Superintendent relating to the Contractor's construction program or the Contractor's progress of the work under the Contract.

Despite any other provision of this Clause:

- (a) any program prepared or provided by the Contractor shall not be used as a construction program for the purposes of this clause until it has been approved by the Superintendent;
- (b) the Contractor shall not be entitled to any addition to the Contract Sum arising from a direction of the Superintendent under this clause unless the Contractor has notified the Superintendent that the direction will result in the Contractor incurring more cost (together with an estimate of that cost) within 7 days after receipt by the Contractor of the direction and before the Contractor gives effect to the direction;
- (c) the power of the Superintendent to require the Contractor to provide a construction program includes a power to require the provision of an updated construction program whenever the Superintendent requires after a change in the Date for Practical Completion or any circumstances affecting the progress of the work under the Contract;
- (d) the Contractor shall provide a construction program and any updated construction program at its own cost and expense; and
- (f) the construction program must show the dates by which, or the times within which the milestones set out in the Contract are to be carried out or completed.

The receipt, acceptance, review, approval or comment by the Superintendent of a construction program furnished by the Contractor does not:

- (a) relieve the Contractor from its liabilities or obligations, including without limitation the obligation to achieve Practical Completion by the Date for Practical Completion;
- (b) evidence or constitute a direction by the Superintendent to accelerate, disrupt, prolong or vary any, or all, of the Works;
- (c) affect the time for performance of the Principal's or the Superintendent's obligations."

Add after Clause 33.2, the following:

"33.3 Acceleration

Where the Contractor is entitled to an extension of time for Practical Completion under Clause 35.5, the Superintendent may, instead of granting a reasonable extension of time under that Clause, direct the Contractor in writing to accelerate the performance of the work under the Contract so as to overcome the whole or part of the delay which gave rise to the entitlement to an extension of time and the Contractor shall comply with that direction.

If the Superintendent directs the Contractor under this Clause 33.3 to accelerate the performance of the work under the Contract so as to overcome:

- (a) the whole of the delay in question, then the Contractor shall no longer be entitled to any extension of time for that delay; or
- (b) part only of the delay in question, the Contractor shall no longer be entitled to any extension of time for that part of the delay the subject of the Superintendent's direction, but the Superintendent shall grant a reasonable extension of time under Clause 35.5 for the balance of the delay.

No direction by the Superintendent shall constitute a direction under this Clause 33.3 unless it is in writing and expressly states that it is a direction under Clause 33.3.

If compliance with a direction to accelerate given under this Clause 33.3 causes the Contractor to incur more or less cost than otherwise would have been incurred had the direction not been given, the difference shall be valued under Clause 40.5."

34. Suspension

Add to the end of Clause 34.1, the following:

"The Superintendent may also direct the Contractor to suspend the carrying out of the whole or part of the work under the Contract under this clause if required by the Principal for its convenience, for such time as the Superintendent thinks fit."

Add to the end of Clause 34.2, the following:

"The Contractor shall not be entitled to any extension of time in connection with a suspension approved by the Superintendent under this clause."

Replace Clause 34.4 with the following:

"Any cost, expense, loss or damage (including delay and disruption costs) incurred by the Contractor by reason of any suspension under this clause shall be borne by the Contractor but if:

- (a) the suspension is directed by the Superintendent or the Principal; and
- (b) the suspension has been directed by the Superintendent or Principal solely:
 - (i) for the convenience of the Principal; or
 - (ii) because of an act or omission of the Principal, the Superintendent or an employee, consultant or agent of the Principal; and
- (c) the suspension causes the Contractor to incur more or less cost than otherwise would have been incurred but for the suspension,

the difference in cost shall be assessed by the Superintendent and added to or deducted from the Contract Sum.

Clause 36 shall not apply to delay or disruption costs or damages resulting from a suspension under this Clause 34."

35. Times for Commencement and Practical Completion

Delete the first paragraph of Clause 35.5 and replace with the following:

"Within 7 days of it becoming evident to the Contractor that anything, including an act or omission of the Principal, the Superintendent or the Principal's employees, consultants, other contractors or agents, may delay the work under the Contract, the Contractor shall notify the Superintendent in writing with details of the possible delay and the cause."

Replace the following words in the third paragraph of Clause 35.5:

The words "delay occurs" are replaced with the words "commencement of that cause".

Delete subparagraph (a) of Clause 35.5 and replace with the following:

"(a) events occurring on or before the Date for Practical Completion which are beyond the reasonable control of the Contractor (but not including a delay, breach, act or omission by any subcontractor or any of the Contractor's employees) including but not limited to – industrial conditions; inclement weather;"

Add to the end of the penultimate paragraph of Clause 35.5, the following:

"The discretion given by this Clause to the Superintendent is wholly for the benefit of the Principal, and the Superintendent is not required to exercise the discretion for the benefit of the Contractor."

Add to the end of Clause 35.5, the following:

"The Contractor shall not be entitled to an extension of time for any delay in respect of which the Contractor has failed to comply strictly with the notification provisions of Clause 35.5.

Neither a delay caused by any one or more of the causes mentioned in Clauses 35.5(b)(i), 35.5(b)(iii), 35.5(b)(iv) or 35.5(b)(x), nor a failure by the Superintendent to grant an extension of time or a reasonable extension of time under this Clause or to do so within the time stated in this Clause, nor the giving of a direction to accelerate under Clause 33.3 shall:

- (c) set the Date for Practical Completion or any other time at large; or
- (d) render Clause 35.6 unenforceable,

but nothing in this paragraph shall prejudice any right of the Contractor to damages."

Add after Clause 35.5, the following:

"35.5A Reduction of Time

Notwithstanding that the definition of Date for Practical Completion does not expressly contemplate a reduction in the time for achieving Practical Completion, where any direction given by the Superintendent (including any variation) has the effect of reducing the amount of time required by the Contractor to achieve Practical Completion, the Superintendent may give to the Contractor and the Principal a written direction bringing forward the Date for Practical Completion by a reasonable period."

36. Delay or Disruption Costs

Add to the end of Clause 36, the following:

"The Contractor shall not be entitled to claim any delay damages or costs which could reasonably have been avoided by the Contractor.

Except to the extent expressly set out in Clause 36, the Contractor shall not be entitled to claim any costs, expenses, damages or other amounts resulting from any delay or disruption arising from any cause (including without limitation any breach by the Principal)."

37. Defects Liability

Delete the third sentence of the third paragraph and replace with the following sentence:

"Where a direction is given by the Superintendent under this clause, there shall be a separate Defects Liability Period in respect of the rectification work carried out pursuant to the direction of the same duration as the Defects Liability Period stated in Annexure Part A."

40. Variations

Delete the second last paragraph of Clause 40.1

Add to the end of Clause 40.1:

"Where any part of the work under the Contract is omitted, the Principal may carry out the omitted work itself or engage others to perform the omitted work."

Add after Clause 40.5, the following:

"40.6 Notice of Variations

If the Contractor considers that a direction by the Superintendent (including a direction to remedy or re-execute work or material which the Contractor considers complies with the Contract) is a variation even though it was not expressly identified as a variation to the work under the Contract by the Superintendent, then the Contractor must within 14 days of the receipt of the direction, notify the Superintendent of that view identifying the relevant direction and the reasons why the Contractor considers that the direction is a variation.

Within 14 days of receiving such a notice, the Superintendent shall confirm in writing whether or not the direction is a variation to the work under the Contract. If the Superintendent confirms that the direction is a variation to the work under the Contract, the variation will be valued under Clause 40.5.

Unless the Contractor gives the notice required under this Clause and:

- (a) the Superintendent confirms that the direction is a variation to the work under the Contract within 14 days of the Contractor's notice; or
- (b) the Contractor gives a prescribed notice under Clause 46 within 21 days of its first notice under this Clause,

the Contractor may not make a claim against the Principal in respect of the work the subject of the direction whether under the Contract or (insofar as is permitted by law) pursuant to any other principle of law."

42. Payment

Delete any reference to "claim for payment" and replace with "payment claim".

Delete any reference to “claims for payment” and replace with “payment claims”.

Delete any reference to “payment certificate” and replace with “payment schedule”.

Delete any reference to “payment certificates” and replace with “payment schedules”.

Delete the words “14 days” in the first sentence of the second paragraph of Clause 42.1 and replace with “15 Business Days”

Delete the words “within 28 days” in the first sentence of the fourth paragraph of Clause 42.1 and replace with “20 Business Days”

Delete the words “14 days” in the first sentence of the fourth paragraph of Clause 42.1 and replace with “10 Business Days”.

Add to the end of Clause 42.1 the following:

"If the Contractor lodges a payment claim earlier than the times specified by this Clause and/or which does not include all information or evidence required by the Contract, the Superintendent shall not be obliged to issue a payment schedule in respect of the payment claim earlier than would have been the case had the Contractor submitted its payment claim in accordance with the Contract.

Despite the issue of a payment schedule by the Superintendent, the Principal shall not be liable to pay any amount certified which relates to an unliquidated claim for damages or any amount in respect of which it is entitled to a set-off under Clause 42.10.

The Contractor warrants and agrees that ownership of and property in any plant or material incorporated or to be incorporated in the Works shall pass to the Principal upon payment to the Contractor of the amount claimed by the Contractor in respect of that plant or material."

Delete the words “14 days” from the first sentence of Clause 42.8 and replace with “15 Business Days”.

Delete Clause 42.10 and replace with the following:

"42.10 Set Offs by the Principal

Without limiting the Principal's rights under the Contract or otherwise, and notwithstanding the provisions of Clauses 42.1 and 42.8 or the issue of any payment schedule by the Superintendent under those Clauses, the Principal may deduct from any moneys due to the Contractor, including from any retention moneys, security or the proceeds of conversion of any security into money, any debt due from the Contractor to the Principal and any amount to cover any claim which the Principal may have against the Contractor:

- (a) whether or not the debt or claim arises by way of damages, debt, restitution or otherwise; and
- (b) whether or not the factual basis giving rise to the debt or claim arises out of this Contract, any other contract or is independent of any contract.

Nothing in this Clause shall affect the right of the Principal to recover from the Contractor the whole of the debt or claim or any balance that remains owing. This Clause shall survive termination of the Contract."

42.12 GST

(a) In this Clause:

- (1) "GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition Act (whether imposing tax as a duty of customs excise or otherwise) and includes any legislation which is enacted to validate recapture or recoup the tax imposed by any of such Acts;
- (2) "Representative" means a representative member of a GST group to which the relevant supplier belongs; and
- (3) the expressions "*adjustment note*", "*consideration*", "*GST*", "*input tax credit*", "*supply*", "*tax invoice*", "*recipient*" and "*taxable supply*" have the meaning given to those expressions in the GST Act.

(b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Contract are exclusive of GST.

- (c) Despite any other provision in this Contract, if GST is imposed on any supply made under this Contract, the recipient must pay to the supplier an amount equal to the GST payable on the taxable supply.
- (d) The recipient must pay the amount referred to in Clause 42.13(c) in addition to and at the same time as payment for the taxable supply is required to be made under this Contract.
- (e) If the amount of GST paid or payable by the supplier on any supply made under this Contract differs from the amount of GST paid by the recipient, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST, then the amount of GST paid by the recipient will be adjusted accordingly by a further payment by the recipient to the supplier or the supplier to the recipient, as the case may be.
- (f) If this Contract requires a party to reimburse or indemnify the other party for any expense, loss or outgoings ("*reimbursable expense*") the amount required to be reimbursed or indemnified by the first party will be the amount of the reimbursable expenses net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense ("*net amount*") PROVIDED THAT should the reimbursement or indemnity be subject to GST, the net amount shall be increased in accordance with Clause 42.13(c).
- (g) A valid tax invoice or adjustment note must be delivered by a supplier to the recipient before the supplier is entitled to payment of an amount under Clause 42.13. The recipient can withhold payment of the amount until the supplier provides a valid tax invoice or adjustment note as appropriate.
- (h) The Principal is authorised to withhold from payments to the Contractor, such amounts as are required under the Pay as You Go (PAYG) system.
- (i) If this Contract requires the calculation of a price by the addition of a percentage margin to another rate or price, the percentage shall be applied to the rate or price exclusive of GST (or where the rate is expressed as being GST inclusive, then less any input tax credit the supplier is entitled to claim in respect of that item).
- (j) In the event that liability for payment of GST in respect of a supply under this Contract is imposed upon a Representative of a supplier this Clause 42.13 shall nonetheless apply and any amounts to be calculated pursuant to Clauses 42.13(c) and 42.13(e) shall be calculated in all respects as if the supplier was liable for the GST imposed on such supply and entitled to input tax credits properly allocated to the making of that supply.

42.13 PAYG Withholding

This clause applies where:

- (a) the Contractor is not registered for GST; or
- (b) the parties are bound by a Voluntary Agreement.

Whether or not the Principal should bind itself to a Voluntary Agreement at any time may be determined by the Principal in its absolute discretion.

Where this clause applies, the Principal shall be entitled to withhold from any payment otherwise due to the Contractor under or in connection with the Contract, tax calculated and to be held in accordance with the PAYG Law.

42.14 Building Industry Fairness (Security of Payment) Act 2017 [BIF]

(a) This clause applies where:

- (i) the Contractor has made a claim under the *Building Industry Fairness Act BIF*; and
- (ii) it is identified on the claim that the particular claim is being made under the BIF.

(b) A claim made under the BIF shall be administered in accordance with the statute requirements and take precedence over the contractual payment requirements.

(c) Upon a claim being made by the Contractor under the BIF Council shall reserve the right at its sole and absolute discretion to initiate, prepare and forward to the Contractor a Recipient Created Tax Invoice [RCTI] for that particular claim. The RCTI shall be forwarded to the Contractor at the time of the Payment Schedule being issued in accordance with statute time bars. Payment shall equate to

value reflected on the Payment Schedule and on the RCTI. Should any inconsistency exist between the Payment Schedule and the RCTI the former (Payment Schedule) shall take precedence.

43. Payment of Workers and Subcontractors

Add to the end of the last paragraph of Clause 43, the following:

“For the purposes of this paragraph, documentary evidence may include, without limitation, statutory declarations from workers or subcontractors specified by the Superintendent (in its absolute discretion).”

44. Default or Insolvency

Add a new Clause 44.3A, the following:

“Upon giving a notice under clause 44.3, the Principal may suspend payments to the Contractor until the earlier of:

- i) the date upon which the Contractor shows reasonable cause;
- ii) the date which is 7 days after the last date for showing cause in the notice under clause 44.3.

The Contractor agrees that the Principal may determine in its absolute discretion whether the Contractor has failed to show reasonable cause why the Principal should not exercise a right referred to in clause 34.4.”

Delete the following words from the final paragraph of Clause 44.4:

“in respect of the work taken out of the hands of the Contractor”

Add to the end of Clause 44.6, the following:

“In assessing the cost incurred in relation to work taken out of the Contractor's hands, the Superintendent must include the following additional items of cost to the Principal:

- (a) any costs being incurred by the Principal or the Site Owner by reason of its ownership or holding of the Site for any period;
- (b) any costs of funding (including interest); and
- (c) any other costs, losses, expenses or damages,

arising from or in connection with the Contractor's breach.”

Add to the end of Clause 44.10 the following paragraphs:

“If the Principal terminated the Contract, it may have recourse to any security or retention moneys provided by the Contractor.

If the Contractor terminates the Contract (whether under Clause 44.9 or otherwise at law), the Contractor will not be entitled to a quantum meruit.”

Add after Clause 44.11, the following:

“44.12 Principal May Remedy Contractor's Breach

In addition to any other rights of the Principal, the Principal may perform or have others perform at the Contractor's cost any obligation of the Contractor which the Contractor has failed to perform after reasonable notice from the Principal requiring such performance.

45A. Termination for Convenience

Add after Clause 45, the following:

"45A Termination for Convenience

Notwithstanding any other provision of the Contract, the Principal may, without cause and in its absolute discretion, terminate the Contract at any time, by giving notice in writing to the Contractor. If the Principal terminates the Contract under this Clause, the Contractor shall:

- i. immediately cease the execution of the work under the Contract and (if applicable) commence to demobilise from the Site;
- ii. deliver to the Superintendent documents produced by the Contractor for the purposes of the execution of the work under the Contract;

- iii. be entitled to payment for the work performed by it prior to the date of termination and for its reasonable costs of demobilisation from the Site (if applicable); and
- iv. not be entitled to claim or recover any loss of profit or other consequential loss in respect of the termination."

46. Notification of Claims

Delete Clause 46.1 and replace with the following:

"46.1 Contractor's Prescribed Notice

The Principal shall not be liable upon any claim by the Contractor:

- (a) arising out of or in connection with a breach of the Contract by the Principal;
- (b) arising out of or in connection with the subject matter of the Contract;
- (c) arising out of or in connection with any direction or approval by the Principal or the Superintendent;
- (d) under any provision of the Contract;
- (e) for damages for negligence;
- (f) for damages or for any other remedy under any statute; or
- (g) upon a quantum meruit or for restitution or based on unjust enrichment,

unless within 28 days after the first day upon which the Contractor could reasonably have been aware of the breach or of the entitlement to make the claim, the Contractor has given to the Superintendent the prescribed notice. The prescribed notice is a notice in writing which includes particulars of all of the following:

- (i) the breach, act, omission, direction approval or circumstance on which the claim is or will be based;
- (ii) the provision of the Contract or other basis for the claim or proposed claim; and
- (iii) the quantum or likely quantum of the claim.

This Clause 46 shall not have any application to:

- (i) any claim for payment to the Contractor of the original Contract Sum;
- (ii) any claim for payment for a variation directed by the Superintendent under Clause 40.1; or
- (iii) any claim for an extension of time for Practical Completion.

Nothing in Clause 46 shall limit the operation or effect of any other notice provision, time bar provision, condition precedent or limitation Clause contained in the Contract."

47. Dispute Resolution

Delete the final paragraph of Clause 47.1.

Replace the words "arbitration or litigation" in the final lines of Clause 47.2 Alternatives 1 and 2, with the word "mediation"

Delete Clause 47.3 and replace with the following:

"47.3 Mediation

Mediation of the dispute shall:

- (a) be conducted in Brisbane in accordance with the rules for mediation of commercial disputes published by the Institute of Arbitrators and Mediators Australia ("IAMA") in force at the Date of Acceptance of Tender;
- (b) be administered by the Queensland Chapter of IAMA;
- (c) be at the cost and expense of the parties equally (except that each party shall pay its own advisers, consultants, legal fees and expenses); and
- (d) take place within 28 days of the date of the written notice referring the dispute to mediation.

Other than to enforce any agreement reached at mediation, the parties shall maintain the confidentiality of mediation.

The mediator shall be the person agreed between the parties, or, if no agreement is reached between the parties within 7 days of the written notice referring the dispute to mediation, the mediator shall be nominated by the President of the Queensland Chapter of IAMA. The fees payable to the mediator (which the parties shall share equally) shall be as agreed between the parties and the mediator, or failing agreement as determined by the President of the Queensland Chapter of IAMA.

If the dispute is not resolved at mediation, either party may commence legal proceedings."

48. Waiver of Conditions

Add to the end of Clause 48, the following:

"Failure by the Principal or by the Superintendent acting on behalf of the Principal at any time and from time to time to enforce or require strict compliance with, or performance of any terms of the Contract will not constitute waiver of, or affect, or impair such terms in any way, nor shall such failure affect the right of the Principal to avail itself at any time of such remedies it may have for any subsequent breach of the terms by the Contractor."



Redland
CITY COUNCIL

INVITATION TO TENDER

Tender: PDG-44044-1

TRACKS & TRAILS – REDLANDS COAST EASTERN HINTERLAND EXPERIENCE

Closing Date: Friday 30 October 2020

Closing Time: 2.00PM (QLD STD TIME)

Redland City Council

ABN 86 058 929 428

Cnr Bloomfield & Middle Streets Cleveland Q 4163

PO Box 21 Cleveland Q 4163 Australia

Telephone: (07) 3829 8999 Facsimile: (07) 3829 8765 Email: redland@redland.qld.gov.au

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Document Status

Rev No.	Author	Reviewers	Approved for Issue		
			Name	Signature	Date
001	T Justice	G Finlay	-	-	06/10/2020
Final for Tender	T Justice		A. Burrows		

IMPORTANT NOTE TO TENDERERS

THIS INVITATION TO TENDER [ITT] DOCUMENT COMPRISES TWO (2) SECTIONS A and B AS FOLLOWS:

SECTION A: Invitation To Tender

Is to be read, understood and retained by the Tenderer. It is not to be submitted at closing time as part of the Tender offer.

- PART 1 Notice to Tenderers**
- PART 2 Conditions of Tender**
- PART 3 Conditions of Contract**
- PART 4 Special Conditions of Contract**
- PART 5 Project Brief**

SECTION B: Tender Deliverable Attachments

Tender Deliverable Attachments must be completed in full, signed and lodged at the closing time and shall be known from here on in as the Tenderer's offer.

Should a Tenderer fail to complete these Tender Deliverable Attachments in full Council reserve the right at its sole and absolute discretion to reject the offer as Non-Conforming.

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**THIS SECTION A – PARTS 1 to 5 IS TO BE RETAINED BY THE TENDERER AND NOT
LODGED AT CLOSING TIME.**

1 NOTICE TO TENDERERS

The Notice to Tenderers gives a brief background to the tendering processes and objectives of this Invitation to Tender (“ITT”). As such, it is only a guide and is not to form part of any contract or agreement between the Redland City Council (“Council”) or any person, firm or corporation.

1.1 DESCRIPTION OF GOODS AND/OR SERVICES TO BE PROVIDED

Council requires a main/head Contractor for the construction of Tracks & Trails and associated works at the Eastern Escarpment Conservation Area, Mount Cotton, Redland City.

The work to be performed under this Contract comprises of the provision of the all materials, plant/equipment, labour and the performance of all operations necessary for the supply/delivery, installation or construction, supervision and certification for the proposed works/services, which include but are not limited to:

- Detailed dilapidation survey report (pre and post works);
- Provision of Environmental, Work Health and Safety Management Plans;
- Removal of existing boardwalk (where indicated);
- Supply and Installation of Geoweb track to replace above boardwalk including associated earthworks and erosion protection;
- Construction of new trail corridor;
- Upgrade of existing trail;
- Supply and installation of fauna fence as specified;
- Supply and installation of farm gate with step over as specified;
- Supply and installation of trail bollard signage;
- Supply and installation of 2 post map signage; and
- Associated earthworks and landscaping (where required).

All works are to be carried out as per the ‘Location Map’ (Appendix A), ‘Technical Specification’ Appendix B) and other Appendices (refer Appendices A to E).

Notes:

1. It is preferable practical completion for this project (on-site) is by Friday, 26 March 2021.
2. Boardwalk material is to be taken off-site, recycled (if possible), reused or disposed of at a registered transfer station in accordance with the *Waste Levy Act*.

1.2 TENDER DOCUMENT FEE

A fee is not applicable for electronic copies. No hard copies will be provided.

1.3 STRUCTURE OF THIS INVITATION TO TENDER

This Invitation to Tender is comprised of the following parts:

Section A: Part 1: Notice To Tenderers

Part 2: Conditions of Tender

This Part contains the instructions, conditions and guidelines to be followed in submitting Tenders including the criteria to be used in the evaluation of Tenders.

Part 3: Conditions of Contract

This Part contains the terms and conditions of the Contract for the provision of the goods and/or services provided by the successful Tenderer. This Part 3 will form part of any Contract that may be entered into from this ITT.

Part 4: Special Conditions of Contract

This Part contains any Special Conditions of the Contract that may apply under AS2124-1992. Any changes applicable in that instance will be reflected within Annexure Part B of AS2124-1992 within the specific Contract. This Part 4 will form part of any Contract that may be entered into from this ITT.

Part 5: Project Brief

Sets out Council's requirements for the provision of the trailhead facility and associated works. This Part 5 will form part of any Contract that may be entered into from this ITT.

Section B: Tender Deliverable Attachments

The Tender Deliverable Attachments specify the information Tenderers are required to provide with their Tenders in order for Council to assess and evaluate the tenders. Tenderers are advised and must note the criticality of completing the Tender Deliverable Attachments in full.

This Section B Tender Deliverable Attachments as completed by the Tenderer will form part of any Contract that may be entered into from this ITT.

Should a Tenderer fail to provide the Tender Deliverable Attachments completed in full may render their Tender non-conforming and may further result in their Tender being ineligible for further consideration and rejected at the sole and absolute discretion of Council.

1.4 COMMERCIAL APPROACH

Tenders will be initially evaluated to determine whether they comply with the requirements of this ITT. Tenderers must note that under Clause 2.9.6 of the Conditions of Tender, the Council has the discretion to reject non-conforming Tenders.

Those Tenders that pass initial evaluation will be assessed according to the evaluation criteria and in accordance with the other conditions of Tender.

Tenderers must note that the Council intend to award the Contract to the Tenderer whose Tender is considered to be most advantageous and best value for money to Council. Therefore, whilst cost is an important consideration, it is only part of the evaluation criteria.

1.5 INFORMATION SUPPLIED BY THE COUNCIL

The Council will, to the maximum extent possible, supply Tenderers with as much relevant information as possible in order to allow Tenderers to develop a response to this ITT which meets the Council's requirements.

However, Tenderers must note the provisions of Clause 2.7.8 of the Conditions of Tender which state that Tenderers must make their own enquiries and inspections to satisfy themselves of the information required to submit their Tenders.

1.6 DISCLOSURE OF INFORMATION

In an assessment of any offer made under the *Right to Information Act 2009 (Qld)* any information endorsed "in confidence" by an offerer/tenderer will be assessed for non-

disclosure in accordance with the terms of the legislation. Information will not be disclosed unless there is legislative authority to do so.

1.7 PRIVACY STATEMENT

Council is authorised to collect your personal information under the *Local Government Act 2009* for the purpose of carrying out Council's statutory obligations and duties. In addition, Council intends to use the personal information you have provided regarding your business for Council business including promotional, marketing and research for procurement and economic development activities. Your business details may be released to members of the public and third parties through Council's website or through referrals.

In accordance with the *Electronic Transactions (Queensland) Act 2001*, Council may provide information and notices, such as procurement, tender and contract notices to you by electronic communication. By registering your interest in this tender your consent to this form of contact is taken to be given. If you do not wish your details to be used for any one or more of the above purposes, you should advise Council in writing.

2 CONDITIONS OF TENDER

2.1 INTERPRETATION

In these Conditions of Tender, unless a contrary intention is apparent:

- (a) “**Contract**” means the contract between the Council and the successful Tenderer on similar terms to the Contract contained in Parts 3 and 4 of this Invitation to Tender;
- (b) “**Contractor**” means a person or any other body (whether corporate or otherwise) providing the goods and/or services pursuant to the Contract;
- (c) “**Council**” means the Redland City Council, an elected body that is responsible for the good rule and local government of a part of Queensland under the *Local Government Act 2009*;
- (d) “**Council Contact Officer**” means the person or persons specified in Clause 2.9.1 of these Conditions of Tender or such other person as the Council may from time to time determine;
- (e) “**Critical Impact**” means any item and or clause that Council at its sole and absolute discretion deems essential to occur in order to successfully meet the project requirements;
- (f) “**Dismissed Employee**” means any previous employee, staff or contractor of the Council who was dismissed as a result of disciplinary action;
- (g) “**Goods/Services**” means the materials/goods and/or services as specified in Council’s documents (including any variation to such materials/goods/services, documentation such as testing certificates and safety data sheets “SDS” that are applicable to each item or type of goods and testing certificates);
- (h) “**GST**” means the goods and services tax payable under the GST laws;
- (i) “**GST laws**” has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;
- (j) “**Intellectual Property Rights**” means any rights in respect of or in connection with any confidential, information, copyright, patents, design rights, reports, drawings, specification, or eligible layout rights and includes any right to apply for registration of such intellectual property rights;
- (k) “**Invitation to Tender**” or “**ITT**” means this document and all of its Parts inviting Tenderers to offer to meet the Council’s requirements by submitting a Tender in accordance with the requirements of these Conditions of Tender;
- (l) “**New Tax System changes**” has the same meaning given in section 75AT of the *Trade Practices Act 1974* of the Commonwealth;
- (m) “**Non-conforming Tender**” is a tender which does not comply with the requirements of or contains provisions not required or allowed by the Tender Documents;
- (n) “**Site**” means Lot 1 (SP200199) 605-679 West Mount Cotton Road, Mount Cotton;
- (o) “**Specification**” means the Project Brief, Specification, or Technical Specification as contained in Part 5 of this Invitation To Tender;
- (p) “**Statement of Non-Compliance**” means the Statement of Non-Compliance in the format specified by Clause 2.7.9 of these Conditions of Tender;
- (q) “**Tender**” means the Tenderer’s response to this Invitation to Tender;

- (r) “**Tender Box**” means the tender box specified in Clause 2.8 of these Conditions of Tender;
- (s) “**Tender Closing Time**” means the date and time specified in Clause 2.8.1 of these Conditions of Tender;
- (t) “**Tender Deliverable Attachments**” means the attachments to these Conditions of Tender which must be completed in accordance with these Conditions;
- (u) “**Tender Documents**” means:
- (i) The Conditions of Tender;
 - (ii) The General Conditions of Contract as amended by the Special Conditions of Contract;
 - (iii) Council’s Project Brief; and
 - (iv) Other documents as are issued and/or referred to by the Council for the purpose of tendering.
- (v) “**Tenderer**” means a person, partnership or any other body (whether corporate or otherwise) who submits a Tender in accordance with this Invitation to Tender;
- (w) “**Validity Period**” means the time period during which the Council may accept a Tender.
- (x) “**Works**” means the whole of the work to be executed in accordance with the Tender documents.

2.1.1 Inconsistency of Subject or Context

Subject to any inconsistency of subject or context, the following rules of construction shall be used in the interpretation of these Conditions of Tender:

- (a) a cross reference to a clause number is a reference to a clause of these Conditions of Tender and includes all of its subclauses;
- (b) words importing the singular include the plural (and vice versa) and words importing a gender include any other gender;
- (c) in the event of any inconsistency between these Conditions of Tender and the General Conditions in the Contract contained in Part 3 of this ITT, the General Conditions of Contract will take precedence;
- (d) unless a contrary intention is indicated, Part 4, Part 5 and Section B Tender Deliverable Attachments of the ITT shall be interpreted as stated in the draft General Conditions of Contract contained in Part 3.

2.2 PRELIMINARIES

2.2.1 Clarification prior to Tender Closing Time

Tenderers seeking clarification of any of the requirements of this ITT prior to the Tender Closing date/time may only do so in writing and by lodging their clarification on the online forum no later than **two (2) business days prior** to the closing date specified in Clause 2.8 of these Conditions of Tender.

Note:

- Only **written** instructions, clarification, and or directions from Council (posted on Redland City Council Vendor Panel facility) shall be considered as legally binding; and
- Any and all oral instructions, clarification, and or directions from Council including but not limited to silence by Council is considered **invalid** and **shall not** form part of any subsequent Contract that may be entered into.

2.2.2 Queries by Tenderer

If any Tenderer locates any error or omission in the ITT or has any doubt as to the meaning of any part of the ITT, the Tenderer must seek clarification as described in Clause 2.2.1 of these Conditions of Tender.

2.2.3 Amendment or addition to the Invitation to Tender

The Council reserves the right to issue amendments or additions to this ITT at any time before the Tender Closing Time. All Tenderers will be notified of any such amendments or additions.

2.3 SITE INSPECTION

A Site Inspection is considered mandatory for this project. An inspection of the Site will be held on **Friday 16 October 2020 (commencing 9am sharp)** at 616-632 West Mount Cotton Road, Mount Cotton, Redland City. The group will then proceed together to view a selection of trails.

Please ensure PPE (long sleeved shirt and pants, hi-vis clothing and steel capped boots) are worn to the site inspection in order to gain access. Due to the nature of the site visit, tenderers are also recommended to bring their own refreshments.

Please confirm your attendance by emailing pdgprocurement@redland.qld.gov.au, stating “PDG-44044-1 RSVP” by Thursday 15 October 2020 (2pm).

Tenders will only be accepted from those Tenderers represented at the site inspection.

2.4 PART 3 – FINANCIAL SUSTAINABILITY AND ACCOUNTABILITY OF THE LOCAL GOVERNMENT ACT 2009

The following apply to this Invitation to Tender

- (a) Sub-section 104 Financial management systems of the *Local Government Act 2009 Part 3 Financial planning and accountability*;
- (b) Sub-sections 224, 225, 226, 228 of *Chapter 6 Contracting, Part 2 Strategic Contracting procedures* of the *Local Government Regulation 2012*; and
- (c) Sub-section 237 of *Chapter 6, Part 4 Contracting Publishing details of particular contracts* of the *Local Government Regulation 2012*.

2.5 NO LIABILITY FOR VIRUSES

Tenderers must note that when obtaining and or receiving correspondence and or notices in relation to this Tender they are doing so at their own risk and are accepting the entire risk of virus transmission. Council will not provide any guarantee (whether express or implied) in relation to the issue of electronic data and will not be held responsible for any loss or damage (including consequential loss or damage) which may be suffered by any Tenderers.

2.6 NO LIABILITY FOR ELECTRONIC DOCUMENTATION TRANSMISSION

Tenderers must note that when obtaining ITT documentation and or receiving correspondence and or notices in an electronic format they are doing so at their own risk and are accepting the entire risk including the risk of missing data and or documentation. Council has not and will not provide any guarantee (whether express or implied) in relation to the issue of electronic data and will not be held responsible for any loss or damage (including consequential loss or damage) which may be suffered by any Tenderers.

2.7 TENDER REQUIREMENTS

2.7.1 Validity Period of Tender

Each Tenderer shall for each Tender it submits, maintain a Validity Period of 90

(Ninety) days from the Tender Closing Time.

Where the Council seeks an extension of the Validity Period, a request in writing will be forwarded to the Tenderer. The Tenderer shall be required to respond in writing to extend the Validity Period. Failure to respond will result in the Tender not being considered further.

2.7.2 Tender Response Requirements

In their Tenders, Tenderers must provide:

- (a) all information required by the attachments contained in Section B Tender Deliverable Attachments;
- (b) Statement of Non-Compliance where they do not comply with or agree with all of the clauses or conditions in the Project Brief (Part 5), the draft General Conditions of Contract (Part 3), and/or where applicable the Special Conditions of Contract (Part 4);
- (c) details of any special conditions pertaining to the Tender;
- (d) detail of how the Tender meets the requirements of the Specifications and the evaluation criteria; and
- (e) any other information required by this Invitation to Tender.

Failure to provide this information may render a Tender non-conforming and Council may exercise its rights under Clause 2.9.6 of these Conditions of Tender.

2.7.3 Format of Tender

The Tender shall be prepared in accordance with the following requirements:

- (a) **Price Basis** - All prices quoted will be in Australian currency and fixed for the duration of the Contract.
- (b) **Taxes** - All prices must be submitted on the basis of the Australian tax legislation as of the date of this ITT. In relation to the Goods and Services Tax, Tenderers must note Clause 2.7.7 of these Conditions of Tender.
- (c) **Language of Tenders** - The Tender must be in English. Further, any measurements used must be expressed in units legally recognised in Australia.
- (d) **Copies of Tender** - Not applicable for electronic lodgement.

All documents (except drawings) shall be in Microsoft Word version 2010 (or earlier) format or Adobe PDF Format. Drawings are to be in AutoCAD 2010 format unless otherwise specified

2.7.4 Part Offers

Council will not accept a part offer. Partnership arrangements between the main/head Contractor and subcontractors and/or subconsultants are acceptable.

2.7.5 Alternative Offers

Council will accept alternative offers.

An alternative offer will only be accepted if it is also submitted with a Tender that complies with the requirements of this ITT. In order to be considered for evaluation, any such alternative offer must:

- (a) Be for the whole of the work described in the tender package;

- (b) State any consequent changes to the Conforming Tender and include new information under Section B Tender Deliverable Attachment B;
- (c) Fully describe proposed product or material's advantages, disadvantages, limitations and capabilities;
- (d) Be fully costed. Provide lump sum price using Council's Bill of Quantities, Schedule of Prices and/or Rates for works or items proposed under the alternative offer;

Supporting documentation for items (a) to (d) are to be provided with the tender submission (Section B Tender Deliverable Attachments). Failure to provide this information will render your alternative tender non-conforming.

2.7.6 Joint Offers

Council will not accept a joint offer. Partnership arrangements between head Contractor and subcontractors are acceptable.

2.7.7 Goods and Services Tax ("GST")

In completing the relevant Section B Tender Deliverable Attachment to these Conditions of Tender, Tenderers must clearly specify in relation to each price, rate, fee or charge applicable to the tendered goods and/or services:

- (a) the price, rate, fee or charge (exclusive of GST);
- (b) the amount of GST applicable; and
- (c) the price, rate, fee or charge (inclusive of GST).

Tenderers should also note the requirements of the Contract in relation to the provision of valid tax invoices.

2.7.8 Tenderers to Inform Themselves

By responding to this ITT, a Tenderer will be deemed to have acknowledged and agreed that it has done so on the basis that it has:

- (a) the necessary skills, knowledge and experience to provide the goods and/or services sought;
- (b) in preparing its Tender:
 - (i) fully examined the ITT (including all documents the ITT refers to) and any other information made available by the Council to Tenderer for the purpose of this ITT; and
 - (ii) made its own reasonable enquiries (including inspections) to fully inform itself of all the risks, contingencies and other circumstances which may impact on the Tender and the proper performance of the Contractors obligations under the Contract; and
 - (iii) has not relied upon any warranty or representation (whether oral or in writing or by conduct) made on behalf of the Council **except** where such warranty or representation is contained in this ITT or made through the processes specified by these Conditions of Tender; and
- (c) satisfied itself as to the accuracy and sufficiency of the Tender (including the tendered prices) to achieve the due and proper performance and completion of the Contractor's obligations under the Contract.

2.7.9 Statement of Non-Compliance

The Tenderer must provide a Statement of Non-Compliance with the Tender. The purpose of this Statement is to highlight those clauses in the Project Brief (Part 5), the draft General Conditions of Contract (Part 3), Special Conditions of Contract (Part 4) that the Tenderer does not accept or will not be able to fully comply with.

The Statement of Non-Compliance must be in the format and completed in accordance with the instructions specified in Attachment B of the Tender Deliverable Attachments

In completing the Statement of Non-Compliance, Tenderers must note that where the Statement does not indicate which clauses or conditions of either the Specifications or the draft Contract that the Tenderer:

- (a) does not accept; or
- (b) will not be able to fully comply with;

the Tenderer will be deemed by the Council to have fully complied with and accepted all those clauses and conditions which are not included in the Statement of Non-Compliance.

For the purposes of these Conditions of Tender, such full compliance means:

- (i) in the case of a clause which is of an informative nature only - that the clause has been read and understood;
- (ii) in the case of a clause which imposes a contractual conditions - that the condition is agreed to in a strict and literal sense; and
- (iii) in the case of a clause which specifies a characteristic or performance standard to be met by the goods and/or services to be provided - that the offer is to provide or exceed the specified characteristic or standard.

Council reserve the right at its sole and absolute discretion to reject tenders from further evaluation should they be non or partially compliant with those items and or clauses in the Project Brief (Part 5), the draft General Conditions of Contract (Part 3), Special Conditions of Contract (Part 4) that may be considered to have a critical impact on the tendered work.

2.7.10 Ownership of Tender Documentation

- (a) By submitting a Tender, the Tenderer:
 - (i) licenses the Council to reproduce for its own purposes whatsoever, the whole or any portion of the Tender notwithstanding any copyright or other Intellectual Property Rights that may subsist in those documents; and
 - (ii) acknowledges that the Tender and all other documentation submitted with it shall not be returned to the Tenderer.
- (b) Council acknowledges that, subject to paragraph (a) above, the Intellectual Property Rights in the Tender documentation remains vested in the Tenderer concerned.

2.7.11 Sub-contractors

Where a Tenderer proposes to sub-contract any of its obligations under the Contract, the Tenderer must state the name and address of each sub-contractor and the extent of the work to be carried out by the sub-contractor. In addition, the Tenderer must provide information about each sub-contractor as required within Section B 'Tender Deliverable Attachments'.

2.7.12 Changes to Tenders

Pursuant to *Chapter 6 Part 3 Default contracting procedures Contracting, Section 177 (7) in Part 3 (Default contracting procedures), sub-section 228 Tender process (7) (a) and (b) of the Local Government Regulation 2012*, before making a decision on the Tenders, Council may invite all the persons who have submitted a Tender to change their Tender to take account of a change in the Tender Specifications.

2.8 LODGEMENT OF TENDERS

2.8.1 Tender Closing Date and Time

Tender is to be lodged on or before the Tender Closing Time of **2.00pm** (Queensland Standard Time) on **Friday 30 October 2020** in accordance with these Conditions of Tender.

2.8.2 Method of Lodgement of Tender

Tenderers are required to submit their tenders electronically online using the Vendor Panel System by the closing date and time specified in Clause 2.8.1 above.

By uploading tender submissions electronically using the Vendor Panel system, it is deemed that tenderers have read, understood and accepted the terms and conditions of tender.

- (a) Tenderers must allow themselves sufficient time to upload their submissions as the electronic tender box closes strictly on the day and time specified in Clause 2.8.1 above. Please commence uploading at least 60 minutes before closing time;
- (b) Use file names with alpha-numeric characters (letters and numbers and less than 250 characters);
- (c) Total file size of any document or zipped file must be kept below 15MB. Zip compressed files only (not .zipx, .rar, .7z).
- (d) File ideally to be uploaded as one (1) single Adobe Portable Document Format (.pdf) if under 15MB, however if total combined document/file size is greater then:

Each file should be clearly cross-referenced to Section B Tender Deliverable Attachments e.g. scan each “Section B Tender Deliverable Attachment” with supporting documents directly behind the relevant Tender Deliverable Attachment and saved separately; and

- (e) Any drawings to be in A3 format. Cross-referenced to the relevant Section B Tender Deliverable Attachment and uploaded as a separate file (if required).

The tender submission should:

- (a) be clearly marked clearly marked **“PDG-44044-1”, Tracks & Trails – Eastern Hinterland and Tenderers company name;**

Any difficulties uploading files should be reported urgently to “Vendor Panel Supplier Support on (03) 9095 6181” 6181 or go to www.vendorpanel.com.au/suppliermarketplace to review suite of instructional videos and frequently asked questions.

NOTE: Council reserves the right at its sole and absolute discretion to reject tenders that are not lodged in accordance with the above Clause 2.8.1 and Clause 2.8.2 sub items (a) and (b).

2.8.3 Method of Lodgement of Samples

Not Applicable.

2.8.4 Electronic Transmission of Tenders

Electronic Transmission of Tenders must be lodged electronically online by the closing date and time as specified in Clause 2.8.1 and Clause 2.8.2 above.

2.8.5 Late Tenders

Redland City Council’s Vendor Panel facility does not accommodate for lodgement of

late tender submissions.

A late Tender will only be admitted into evaluation if the Council (in its sole and absolute discretion) makes a decision to do so.

Please ensure full compliance with Clause 2.8.1 and Clause 2.8.2.

2.9 TENDER PROCESS

2.9.1 Council Contact Officer

After the Tender Closing Time, all correspondence and communications relating to this ITT shall be in writing and directed to:

Tracey Justice
Senior Adviser, Tenders and Contracts
Redland City Council (Project Delivery Group – Tender and Contracts Unit)
PO Box 21
CLEVELAND QLD 4163

Email: pdgprocurement@redland.qld.gov.au

2.9.2 No obligation to enter into a contract

By issuing this ITT, Council is under no obligation (whether equitable or legal) to proceed either in whole or in part with the procurement of the goods and/or services to which the ITT relates. Council is not committed financially, contractually or in any other way to any person who may receive the ITT or submit a Tender.

2.9.3 Variation to the ITT

Council reserves the right to:

- (a) vary or amend the terms and conditions of this ITT at any time before the Tender Closing Time and shall only do so by giving Tenderers timely written notice of such variations or amendment; and
- (b) suspend, terminate or abandon this ITT at any time during or after the Tender Closing Time.

2.9.4 Opening of Tenders

For security and safety reasons Tenders will only be opened in the confined area of the Council's in the presence of two (2) of Council's authorised representatives. Tenderers will not be permitted to be present at the opening of the Tenders.

Details of company names and business detail of Tenders received will be recorded at the time of opening. 'Commercial in Confidence' information including tendered prices and proposed solutions will not be publicly released.

For security and safety reasons Tenders will only be opened in the confined area of the Council premises in the presence of Council's authorised representatives. Tenderers will not be permitted to be present at the opening of the Tenders.

2.9.5 Indicative Timetable

The proposed timetable for the selection process is set out below. This timetable is provided as a guide only and Council is under no obligation to meet the time frames set out below. Council may adjust the stated dates in its absolute discretion or to not proceed with the selection process at all.

Event	Date
Release of Tender	07/10/2020
Site Visits (Mandatory)	16/10/2020
Close of ITT	30/10/2020
Evaluation	07/11/2020
Contract award	18/12/2020

2.9.6 Non Conforming Tenders

Tenders may be classified as non-conforming and excluded from further consideration if:

- (a) A Tender does not comply with the full requirements of this ITT; and/or
- (b) A Tender proposes to engage a Dismissed Employee in the delivery of the Services.

The decisions as to whether a Tender is non-conforming or not and whether a non-conforming Tender is to be accepted or excluded from further consideration are matters that are within Council's sole and absolute discretion.

2.9.7 Errors in Tenders

- (a) Council may exclude from consideration, any Tender in which prices are not clearly and legibly stated.
- (b) Where the Tender is on a lump sum basis and an error has been made in the priced bill of quantities to arrive at the tendered lump sum, the Tenderer shall without undue delay make all such alterations in and to the priced bill of quantities as the Council considers necessary for such purpose.

If the Tenderer fails to make the alterations as directed by the Council and/or fails to do so within the time set by the Council, the Tender shall be deemed to have been withdrawn by the Tenderer.

- (a) Where the prices tendered are on a schedule of rates basis and an error has been made in the calculation or summation of the prices, the Tenderer shall be bound by the rates tendered and the Contract sum/total stated in the Tender shall, subject to the agreement of the Tenderer, be altered by the Council to reflect the correct calculation or summation of the prices.

If the Tenderer fails or refuses to agree to the alteration of the Contract sum/total, the Tender shall be deemed to have been withdrawn by the Tenderer.

- (b) If a Tenderer becomes aware of any other discrepancy, error or omission in its Tender not referred to or covered in paragraphs (b) and (c) above) and wishes to lodge a correction or additional information, it can **only** do so if:
 - (i) the correction or additional information is provided to the Council without undue delay; and
 - (ii) the correction or additional information is provided to the Council in writing and is initialled by the Tenderer; and
 - (iii) the Council first agrees to the provision of such correction or additional information.

2.9.8 Clarification of Tenders

At any stage during the evaluation phase, the Council may request:

- (a) clarification of any Tender in respect of specific issues contained in that Tender; or;
- (b) interviews with Tenderers; or
- (c) tenderers to provide additional information in writing; or

- (d) a site inspection or a presentation of the Tenderers facilities and equipment to clarify any part of the Tender and to examine the capabilities of such facilities and equipment. The Tenderer shall not unreasonably deny such request.

Where requested to clarify any matter contained in the Tender or to provide additional information, Tenderers shall provide such clarification and/or information in writing at the time and place stipulated by Council. Failure to comply with any such request may result in the Tender being excluded from further consideration.

In the event that any clarification, additional information, presentation or site inspection is requested from a Tenderer by the Council, the Tenderer shall provide such clarification, additional information, presentation or site inspection at no cost to the Council whatsoever.

2.9.9 Conduct of Tenderer

Any Tenderer:

- (a) found to have offered a bribe, gratuity, bonus, discount or any sort of enticement to any Councillor or employee of the Council; or
- (b) discusses the Tender with any Councillor or employee of the Council (with the exception of the Council's Contact Officer) at any time prior to the awarding of the Contract to the successful Tenderer;

may have their Tender rejected by Council.

2.9.10 Business Ethics

Council aims to achieve the highest standards of integrity and accountability when doing business, working with the community and delivering services with the same standards expected from our business clients, suppliers and service providers. This is in line with the Queensland Government's *Local Government Act 2009* and the Council's Employee Code of Conduct, with a view to providing the best possible business practices and community, client and supplier outcomes.

To maintain this business ethics, respondents must:

- (a) respect these ethical obligations;
- (b) not pressure Council officers to overlook ethical obligations;
- (c) avoid collusion and unfair practices;
- (d) disclose likely conflicts of interest;
- (e) maintain confidentiality of information that is confidential;
- (f) provide accurate information; and
- (g) help deter unethical practices and/or fraud by promptly reporting your concerns.

Unethical conduct or fraud is not acceptable and should be reported to Council.

2.9.11 Tender Costs

In submitting a tender, the Tenderer will be deemed to have acknowledged and agreed that it will bear all the expenses howsoever incurred in preparing, clarifying and negotiating its Tender and is not entitled to seek any compensation or reimbursement of those costs from the Council.

2.10 TENDER EVALUATION

2.10.1 Evaluation Criteria

Tenderers are advised that the Council's objective in evaluating Tenders is to secure the "**most advantageous offer**" and "**best value for money**" for Council and not

necessarily the lowest price. The factors to be taken into consideration in assessing the Tenders and Tenderers include but are not limited to the following:

TENDER EVALUATION CRITERIA	
<p>MANDATORY CRITERIA Important Note: These criteria <u>must</u> be submitted for assessment as part of the Tender Evaluation process.</p>	<ul style="list-style-type: none"> • Site Inspection • Form of Tender (<i>Tender Deliverable 'A'</i>) • Compliance and Declarations (<i>Tender Deliverable 'B'</i>) <ul style="list-style-type: none"> ○ B1 Statement of Non-Compliance ○ B2 Conflict of Interest and Declaration of Previous Employment • Social Responsibility (<i>Tender Deliverable 'C'</i>) <ul style="list-style-type: none"> ○ C1 Social Benefit ○ C2 Domestic and Family Violence ○ C3 Ethical Supplier Mandate and Compliance to Workplace Laws • Insurance Details (<i>Tender Deliverable 'D'</i>) • Professional Membership, Licences and Certificates (<i>Tender Deliverable 'E'</i>) • Notice of Subcontractors and Subconsultants (<i>Tender Deliverable 'F'</i>) • Accreditation Systems and Management Plans (<i>Tender Deliverable 'K'</i>) • Contract Performance (<i>Tender Deliverable 'L'</i>) <p><i>Failure to complete and submit the above Tender Deliverable Forms will render your tender non-compliant/non-conforming</i></p>
WEIGHTED CRITERIA	
The weighted criteria will be assessed and considered as part of the Tender Evaluation process.	WEIGHTING
<p>COMPETITIVE LOCAL BUSINESS AND INDUSTRY (<i>Tender Deliverable 'G'</i>)</p>	15%
<p>TENDERED SUM (<i>Tender Deliverable 'H'</i>) H1 Tendered Lump Sum H2 Bill of Quantities</p>	25%
<p>EXPERIENCE AND OPERATIONAL CAPABILITY (<i>Tender Deliverable 'I'</i>) I1 Company's experience and Operational Capability I2 Project Team experience</p>	25%
<p>PROGRAM OF WORKS/COMMISSIONING PROGRAM (<i>Tender Deliverable 'J'</i>) J1 Detailed Project Methodology J2 Detailed Program of Works/Commissioning Program and Anticipated Cash Flow Schedule</p>	20%

ACCREDITATION SYSTEMS AND MANAGEMENT PLANS

(Tender Deliverable 'K')

K1 Quality Accreditation/Certification System [QMS] and Quality Management Plan [QMP]

K2 Work Health & Safety Management System [WHSMS] and Work Health and Safety Management Plan [WHSMP]

K3 Environmental Management Plan [EMP]

15%

2.10.2 Development of Competitive Local Business and Industry

In line with Council's Corporate Procurement policy, Council encourages the development of competitive local businesses and will endeavour to promote and support competitive local industry in its Procurement.

In addition to price, performance, quality and suitability, Council may also consider the following factors when conducting its procurement:

- (a) economic growth for the region;
- (b) readily available goods, services and support; and
- (c) the benefit to Council of contracting with local suppliers and the associated local commercial transactions that flow from that contracting.

Council acknowledges that due to its location in the South-East Queensland metropolitan area, and as a significant purchaser of goods and services from the private sector, a "local" business for certain Procurement will vary and may be business based in the South-East Queensland region, Queensland or interstate.

Further, it is accepted that local government can directly and indirectly benefit local business by procuring from a local, Queensland or interstate based supplier by utilising whole-of-government arrangements to access local and other domestic suppliers of works, goods or services. This strategy will encourage local business to compete within a wider market through the whole-of-government tendering platforms.

2.10.3 Indigenous and Social Enterprise

The purpose of this requirement is to stimulate Indigenous entrepreneurship, Social Enterprise organisations and business development by providing Indigenous Australians and Social Enterprises with more opportunities to participate in the economy.

In its submission, each Tenderer is requested to detail how it will increase its:

- (a) purchasing from Indigenous and Social Enterprises (being an organisation that is 50% or more Indigenous owned and/or Social Enterprise organisation that is operating a business); and
- (b) employment of Indigenous Australians and/or from a Social Enterprise organisation,

in the delivery of any resultant contract.

Purchases from an Indigenous and/or Social Enterprise organisation may be in the form of engagement as a sub-contractor and /or use of Indigenous and/or Social Enterprise suppliers in the Tenderers supply chain.

Tenderers are to include any relevant information regarding this requirement in their submission or as indicated in Section B Tender Deliverable Attachments.

2.10.4 Development of New and/or Innovative Solutions

- (a) **Innovation** - During the Term of this Contract, the parties may separately or together develop a solution or solutions ("**New/Innovative Solutions**") which may include situations in which:
- (i) the Contractor makes new goods and/or services available on a commercial basis and such new goods and/or services are:
 - A. a viable substitute for any of the Goods/Services; or
 - B. ancillary to or broadly related to the Goods/Services; and/or
 - (ii) either or both of the parties have developed an innovation(s) to improve value for money outcomes to the Council including but not limited to improved services outcomes for ratepayers/Council, efficiency savings and/or cost reductions.
- (b) **Development**
- (i) During the development of any New/Innovative Solutions, the Council may:
 - A. require a business case to be produced; and
 - B. consider the offer of an Additional Period (for example, where there are significant capital/other costs associated with the New/Innovative Solution).
 - (ii) If the parties wish to include any New/Innovative Solutions in this Contract from time to time, the parties shall work collaboratively to attempt to reach in-principle agreement in relation to:
 - A. any changes required to the Contract Price(s), the Specifications, the Key Performance Indicators and the reporting requirements to implement the New/Innovative Solutions;
 - B. whether the Intellectual Property Rights in the New/Innovative Solution are to vest in the Contractor, the Council or both parties jointly; and
 - C. the date on which the changes to implement the New/Innovative Solutions would take effect.
 - (iii) Each party shall bear its own costs associated with the initiation, development and implementation of any New/Innovative Solutions (irrespective of whether those New/Innovative Solutions are implemented), unless otherwise agreed in writing by the Council's Contract Authority and the Contractor's Representative on a case by case basis.
- (c) **Implementation**
- (i) New/Innovative Solutions will be binding on the parties once ("**Implementation Agreement**"):
 - A. the matters in Clause 2.10.4 have been determined by the parties; and
 - B. the implementation of the New/Innovative Solutions has been recommended by the Management Team and approved in writing by the Council's Contract Authority and the Contractor's Representative.
 - (ii) As of the date specified in the Implementation Agreement, all such New/Innovation Solutions shall be deemed to be:
 - A. Goods/Services to which this Contract applies; and
 - B. incorporated into the Schedules to this Contract (as applicable).

2.10.5 Short Listing

At any time during the evaluation process, the Council may short list more than one Tenderer. Any such shortlist:

- (a) will be based on any of the above evaluation criteria, including price; and

- (b) will be undertaken where no benefit is derived from the evaluation of all of the Tenders received.

2.10.6 Interview and Post Offer Award Negotiation

Council reserves the right at its sole and absolute discretion to conduct interviews and undertake post offer award negotiation with any or all short listed Tenderers.

Council may invite all or any of the Tenderers to give a presentation of its conforming tender during this period.

2.10.7 Financial History

Council reserves the right at its sole and absolute discretion to conduct financial background and current credit checks on any and all Tenderers.

2.10.8 Enquiries of Referees and Others

Tenderers should note that the Council may make enquiries of any person, company or organisation to ascertain the suitability of the Tender and the Tenderer.

This may include, but is not limited to, the confirmation of any information and referees provided in the Tender.

2.11 FORMATION OF CONTRACT

The Contract for the supply of goods and/or services required under this ITT will be based on the draft General Conditions of Contract contained in Part 3 along with the Special Conditions of Contract in Part 4 of this ITT.

The final decision to appoint a Contractor or not will rest with the Council in its sole and absolute discretion. The Council will not be bound to accept the provision of any goods and/or services tendered by any Tenderer unless and until the execution of the Contract by the successful Tenderer.

2.12 MEDIA LIAISON

The Council will be solely responsible for all communications with all media in respect of the progress of this Invitation to Tender (including the Tender evaluation process, all negotiations and awarding of the Contract).

If the Tenderer wishes to communicate with any section of the media in respect of any of these matters, it must first obtain the written consent of the Council through the Council Contact Officer. All communication is to be in accordance with Council's Guideline GL-3072-001 Media Relations.

2.13 COUNCIL'S DELEGATE

Any act, matter or thing which is required or permitted to be performed by the Council may be performed by the Council's Contact Officer.

2.14 DEED OF GUARANTEE, UNDERTAKING AND SUBSTITUTION

Where the Tenderer is a corporation that is a subsidiary of another corporation or is a corporation that is related to another corporation, the Tenderer shall, if so requested by the Council, lodge with the Council before acceptance of the tender, a Deed of Guarantee, Undertaking and Substitution for the performance of the obligations and the discharge of the liabilities of the Contractor under the contract in the form annexed, duly executed by the Tenderer and that other corporation.

2.15 WORKPLACE HEALTH AND SAFETY (WH&S)

All employees, workers, agents, sub-contractors engaged by the Contractor to work on Council's nominated sites must comply with current and relevant Workplace health and safety standards and legislation, Redland City Council's Workplace health and safety standards, including but not limited

to the WH&S policies, systems and the A-Z of health and safety standards when providing services under this contract/arrangement.

2.15.1 Uniforms and Personal Protective Equipment (PPE)

The Contractor must adhere to Council's Personal Protective Equipment (PPE) requirements. The Contractor must ensure:

- (a) all members of the Contractor's Staff are aware of all safety requirements including, but not limited to, correct protective equipment and being in full uniform at all times. Full uniform includes, as a minimum, safety shoes, broad brimmed hat, high visibility vest/shirt, long sleeves and trousers for Contractor's Staff undertaking work at Council's facilities; and
- (b) that the Contractor's Staff comply with any directions of Council's Representative in respect of their personal appearance or attire concerned with matters of health or safety, consistent with Council's Employee Code of Conduct.

2.15.2 BNG Accreditation

It is a condition precedent of any contract entered into as a result of this ITT that any contractor or its employees, workers, agents and sub-contractors engaged to perform services on Council's nominated sites must:

- (a) achieve accreditation with BNG Conserve in accordance with this Invitation to Tender. This includes payment of the associated costs for obtaining the accreditation; and
- (b) undertake a Contractor induction with BNG Conserve and sign and carry the Council Contractor Card produced; and
- (c) undertake a Site Specific Induction at all Council nominated sites prior to entering the worksite.

2.16 CONTRACT PERFORMANCE

During the course of a contract, the contract's performance will be monitored and performance reports may be made available to persons in other agencies and/or jurisdictions as appropriate.

Contract Performance Reports will be required to be undertaken by both the Council and the Supplier/Contractor under the contract.

Both parties are to ensure that representatives meet at the times and place as required by Council to discuss the Contract's performance of, and any issues arising under any formal agreement (including specified Key Performance Indicators).



Redland
CITY COUNCIL

SECTION A - PART 5
Project Brief

TRACKS & TRAILS-REDLANDS
COAST EASTERN HINTERLAND
EXPERIENCE

Project Number
PDG-44044-1

Redland City Council

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Redland City Council

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1 SCOPE OF WORKS

Council requires a main/head Contractor for the construction of Tracks and Trails and associated works at the Eastern Escarpment Conservation Area, Mount Cotton, Redland City.

The work to be performed under this Contract comprises of the provision of all materials, plant/equipment, labour and the performance of all operations necessary for the supply/delivery, installation and construction, supervision and certification for the proposed works/services, which include but are not limited to:

- Detailed dilapidation survey report (pre and post works);
- Provision of Environmental, Work Health and Safety Management Plans;
- Removal of existing boardwalk (where indicated);
- Supply and Installation of Geoweb track to replace above boardwalk including associated earthworks and erosion protection;
- Construction of new trail corridor;
- Upgrade of existing trail;
- Supply and installation of fauna fence as specified;
- Supply and installation of farm gate with step over as specified;
- Supply and installation of trail bollard signage;
- Supply and installation of 2 post map signage; and
- Associated earthworks and landscaping (where required).

All works are to be carried out as per the 'Location Map' (Appendix A), 'Technical Specification' (Appendix B) and other Appendices (refer Appendices A to E).

Notes:

1. It is preferable practical completion for this project (on-site) is by Friday, 26 March 2021.
2. Boardwalk material is to be taken off-site, recycled (if possible), reused or disposed of at a registered transfer station in accordance with the *Waste Levy Act*.

2 SITE LOCATION AND LAND DETAILS

Address: 605-679 West Mount Cotton Road, Mt Cotton

Land Details: Lot 1 SP200199

Land area: Approximately 1465550²

Land Owner: Redland City Council (City Spaces as Trustee)

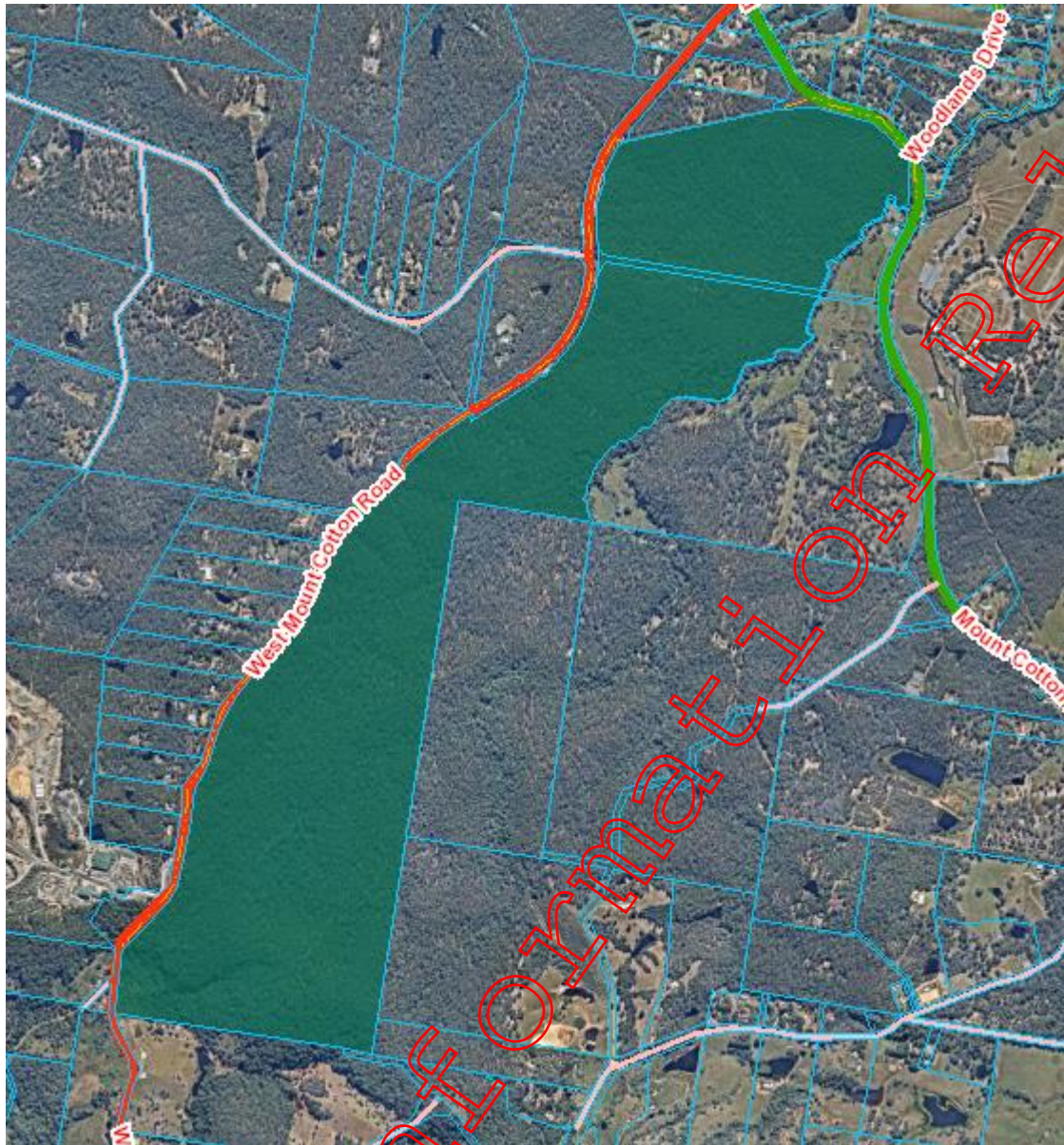


Figure 1: Eastern Escarpment Conservation Area

3 CODES GOVERNING WORK

Codes applicable to this work include but are not limited to:

- *Aboriginal Cultural Heritage Act 2003;*
- IMBA's (International Mountain Bike Association) Guide to New School Trails;
- IMBA's Guide to Building Sweet Single-track;
- Managing Mountain Biking; IMBA's Guide to Providing Great Riding and Bike Parks
- *Queensland Environmental Protection Act 1994 and Regulations 2008;*
- *Work Health and Safety Act 2011, Work Health and Safety Regulation 2011* and current Codes of Practice;
- Standards Association of Australia codes and guidelines as applicable to the various components of the work:
- [Redland City Plan](#) policies, infrastructure plans, codes, schedules, standard drawings.

4 CULTURAL HERITAGE

The *Aboriginal Cultural Heritage Act 2003* enforces the Cultural Heritage Duty of Care when human remains, trees, stones, art, or any objects that may have aboriginal cultural heritage significance are located.

The management and protection of Aboriginal Cultural Heritage is to be in accordance with the duty of care provisions of the *Aboriginal Cultural Heritage Act 2003*, and any other relevant local government by-laws.

For further information, please refer to *Qld Government, [Department of Aboriginal and Torres Strait Islander Partnerships \(DATSIP\) Cultural Heritage Duty of Care](#)* information.

Cultural Heritage measures are to be considered for works on this site.

4.1 Contractor's Duty of Care

The Contractor will be required to fulfil their Duty of Care, upon locating any object deemed significant, by stopping work, and advising the RCC Superintendent and awaiting instructions.

Failure to do so may result in prosecution and fines under the *Aboriginal Cultural Heritage Act 2003*.

5 CONTRACTOR REQUIREMENTS

5.1 Work Health and Safety

The Contractor is responsible for ensuring compliance with their obligations as is defined in the *Work Health and Safety Act 2011*, associated Regulations and Codes of Practice.

The Contractor will be appointed as a Principal Contractor for this project. A Principal Contractor has a duty to ensure the health and safety of the workers (including contractors and subcontractors) and other persons arising from the construction work carried out at or near the vicinity of construction project.

Principal Contractor duties are as specified on the [Workplace Health and Safety Queensland](#) website.

The Principal Contractor and his subcontractors and employees are to ensure that all work under this contract is performed in such a manner that no hazard or risk of injury or damage exists to the Principals employees or property.

5.1.1 Uniforms and Personal Protective Equipment (PPE)

The Contractor must adhere to Council's Personal Protective Equipment (PPE) requirements. The Contractor must ensure:

- all members of the Contractor's Staff are aware of all safety requirements including, but not limited to correct protective equipment and being in full uniform at all times. Full uniform includes, as a minimum, safety shoes, broad brimmed hat, high visibility vest/shirt, long sleeves and trousers for Contractor's Staff undertaking work at Council's sites.
- that the Contractor's Staff comply with any directions of Council's Representative in respect of their personal appearance or attire concerned with matters of health or safety, consistent with Council's Employee Code of Conduct.

5.1.2 Work Health and Safety Management Plan (WHSMP)

The successful contractor must submit a WHSMP for review and approval by the RCC Superintendent prior to the possession of site being granted.

For the purpose of the Tender Evaluation Process only, the Contractor must submit an example WHSMP to Council for review. This example WHSMP must generally be a similar project and include similar detail as required in the WHSMP.

In preparing the WHSMP, the Contractor should include the following:

- Work Method Statements and/or Job Safety Analysis associated with all works required but not limited to:
 - Manual Handling;
 - Using hand and power tools;
 - Working alone, remotely or in isolation;
 - Public entering the construction/work site;
 - Undertaking Trenching and Excavation;
 - Undertaking high risk work activities such as:
 - (a) *is carried out in an area at a workplace in which there is any movement of powered mobile plant;*
- Pedestrian/Facility User Traffic Management requirements – demonstrating pedestrian management while undertaking the works;
- Council’s Personal Protective Equipment (PPE) requirements;
- Any relevant [Codes of Practice](#); and
- Refer to the checklist issued with request for tender.

The final WHSMP is to be signed, dated and submitted for acceptance by the RCC Superintendent prior to the possession of site being granted. The final accepted WHSMP must be available on site at all times for the duration of the project.

5.2 Site Specific Environmental Management Plan (SSEMP)

The successful contractor must submit a SSEMP for review and approval by the RCC Superintendent prior to the possession of site being granted.

The Environmental Management Plan provides a framework for environmental management to be implemented on the site during the construction phase. It helps to ensure that impacts on the environment are minimised and that the ‘environmental due diligence’ requirements of Council and the Contractor are being undertaken as defined by the *Environmental Protection Act 1994*, associated Regulations and Codes of Practice.

The Contractor must submit a draft SSEMP for review during the Evaluation Process. In preparing the SSEMP, the following impacts and operational control measures should also be considered:

In preparing the SSEMP, the Contractor should consider inclusion of the following impacts and operational control measures (where applicable):

- Air quality, noise and dust management;
- Water and waste management arrangements in accordance with Waste Disposal Regulations;
- Flora including tree protection zones;
- Fauna;
- Working within a Koala Habitat;
- Sediment and Erosion control;
- Acid Sulphate Soils (if encountered);
- Any other relevant environmental factors that may be impacted by works onsite; and

- Refer to checklist issued with request for quote.

The final SSEMP is to be signed, dated and submitted for acceptance by the RCC Superintendent prior to the possession of site being granted. The final accepted SSEMP must be available on site at all times for the duration of the project.

5.3 Storage of Contract and approved Final Management Plans

Until the documents as per the Contract have been submitted and deemed acceptable by the RCC Superintendent, the Contractor will not be granted possession of the site.

The Contractor must ensure at least one (1) signed approved copy of all following accepted Contract documentation is kept on site for the duration of works:

- Project Brief;
- Technical Specifications; and
- Final approved Site Specific Management Plans (as stated above).

This documentation may be requested during the duration of works and are to be handed over the RCC Superintendent on completion of the works.

6 CONSTRUCTION STAGE

The Contractor is solely responsible for the execution and completion of all works under the Contract including:

- Works being undertaken in accordance with the Technical Specification and manufacturers recommendations/instructions;
- Ensuring that all operations and methods of construction &/or installation, demolition, materials and workmanship are safe, sufficient and in accordance with the Contract documents;
- All subcontracted work is to be co-ordinated by the Contractor so that works proceed without delay;
- All materials are new, unless otherwise identified by Contractor and approved by Council during tender submission, or in writing by the RCC Superintendent;
- Supply and delivery of all goods to the site or sites mentioned in the documents issued at the Contractor's own expense and at such time or times as approved by the RCC Superintendent. The Contractor is required to pay duty, freight, cartage, insurance and all other charges. Delivery is to include off-loading at the site or sites unless otherwise specified; and
- In addition to items of work specifically mentioned in the relevant sections, each trade will assist, and arrange work sequence with every other, in such a manner as to promote the best interests of the works as a whole.

The Contractor must also ensure:

- Two (2) business days notice is given to the RCC Superintendent of any shutdowns and obtain approval prior to the shutdown occurring; and
- Variations will not be authorised for unnecessary additional work due to disputes between trade and subcontractors, or between subcontractors and the Contractor.

6.1 Work Hours

The Contractor will be required to adhere to the following work hours:

- Monday to Friday 7.00am to 6.00pm
- Saturday 7.00am to 5.00pm only with prior written approval from the RCC Superintendent
- Sundays or Public Holidays No work

These days and times can only be varied with the written approval of the RCC Superintendent.

6.1.1 Existing Services

The Contractor is required to take every precaution to protect existing services, including gas, water, storm water, sewerage, electricity and telephone conduits (if present), and other existing works and services.

It is the Contractor's responsibility to locate such works and services prior to commencement of any works on site.

Existing Services such as drains, watercourses, public utility and other services, if encountered, obstructed, or damaged by the Contractor or their nominated Subcontractors in the course of performing the work under the Contract, is to be dealt with as follows:

- If the Service is to be continued: Repair, divert, relocate as required; or
- If the Service is to be abandoned: Cut and seal or disconnect.

All cost associated with works on public utilities are to be included in the tendered price.

Damage to Existing Services by the Contractor is to be reported immediately to the RCC Superintendent and the Authority concerned and is to be repaired at the Contractor's expense to the satisfaction of the Authority and the RCC Superintendent.

6.2 Possession of Site

Possession of site will not be given until the RCC Superintendent has received, reviewed and deemed acceptable:

- All outstanding documentation as stated in the Contract

6.3 Site Establishment Conditions

The Contractor's initial access to the site must be coordinated with the RCC Superintendent prior to any works commencing. Possession of the site will be in accordance with the directions from the RCC Superintendent.

The Contractor is required to:

- Employ on the site at all times a named competent foreperson who will not be changed during the course of the works without the RCC Superintendent approval;
- Supply all necessary labour including assistant foreperson, leading hands, time clerks, laborers, etc, necessary for the efficient organisation of the work;
- Assess the site's existing condition (refer to Dilapidation Survey Report below) and notify the RCC Superintendent in the event that they assess the site as not suitable for handover and commencement of the works;
- Assume responsibility for the type and quality of work undertaken and the extent of works within the site;
- As is reasonably practicable, ensure the site is to be kept clean internally and externally and all existing surface finishes, physical structures, and newly finished surfaces and materials are protected from damage;

- Maintaining the site, public ways and car park around each site for general public use outside and during the Contractor's hours of work (where applicable);
- Be responsible for all establishment works on the site including the setting up of temporary facilities, services, site offices and workplace amenities. The location of all site buildings and access ways must be approved by the RCC Superintendent before installation;
 - Amenities and facilities for use by work persons during works are to be provided by the Contractor and must comply with the requirements of all Authorities. The Contractor is required to maintain amenities in a clean and sanitary condition and remove all amenities and any by-products at the completion of the work.
 - Preferred provision of Workplace Amenities is to be clearly detailed in the Site Specific Environmental Management Plan (and site layout).
- Observe and ensure that all personnel, including sub-contractors and nominated suppliers observe the rules and regulations in force on the construction site and comply with all notices and instructions issued by the RCC Superintendent in relation to such rules and regulations. The Contractor will comply with any environmental or other conditions stipulated by RCC Superintendent;
- Be responsible for all disestablishment works on the site including removal from site of plant/equipment, temporary works and services, as well as all surplus materials, spoil and debris and restoration of all disturbed areas. All spoilage removal is to comply with all relevant legislation and standards;
- Provide and maintain suitable weather protection for all work during the progress of the project;
- Make good all damage including such damage caused by officers' and separate subcontractors on the site and consult with subcontractors for the provision of the extent of protection required. This includes any damage to fencing, trails, roadways, surfaces, pavements including vegetation and any other work which may be disturbed or injured by cartage or other operations and to work under construction as it occurs and in any case before practical completion and
- Upon completion of all works and prior to practical completion, the Contractor is required to clean all new and existing surfaces to the RCC Superintendent's satisfaction.

Any damage caused to the site works or adjacent properties by the execution of work in this Contract is to be made good by the Contractor at their own expense and to the satisfaction of the RCC Superintendent.

6.3.1 Site Security

The Contractor is wholly responsible for the proper and adequate safeguarding of the works, and of fixed and unfixed materials on the site during both business and non-business hours.

No claim for extensions of time or extra cost will be allowed in respect of damage or loss of materials or interruption of work due to the Contractor's failure to adequately safeguard the Works.

All losses is required to be replaced by the Contractor without cost to the Council.

Temporary Fence

The Contractor is required to enclose the plant/laydown area within the defined Contractor's site area with a temporary barricade to satisfy requirements of the *Work Health and Safety Act 2011*, associated Regulations and Codes of Practice.

The Contractor may be required to make any modifications or extensions to the fence to ensure that they provide the necessary level of protection so as to protect persons from injury and/or property damage.

No advertisement of any kind is to occur on the fences without the permission of the RCC Superintendent.

6.3.2 Natural and Built Assets

The Contractor is to take care to preserve all natural and built assets at the site. Any destruction of the natural and built assets (including work in progress) by the Contractor may be regarded as a default and will be subject to the provisions of the Conditions of Contract.

The Contractor is required to:

- Refrain from destroying, removing or clearing trees, timber, scrub or other vegetation unless approved by the RCC Superintendent in writing; and
- Protect and avoid damage to built assets and work in progress.

6.3.3 Dilapidation Survey Report

The Contractor is required to provide detailed pre and post works dilapidation survey report. This survey is to extend over the property to include all areas that will be influenced by the Contractor's work. It is suggested as a minimum that the following are included:

- Detail existing conditions within the site and on adjoining properties, especially structural defects, environmental degradation, erosion and other damage or defacement;
- Areas of influence should be critically identified by the contractor;
- Photographs should be taken for the full extent of the work area including adjacent areas as evidence of existing condition;
- Existing areas of dilapidation should be photographed in detail;
- Photographs should clearly identify existing condition and extents of dilapidation;
- Where cracks are present a crack gauge &/or tape measure should be used to measure such dilapidation; and
- Where movement or separation of structures exist, a crack gauge &/or tape measure should be used to measure such dilapidation.

The contractor shall provide:

- Not less than two (2) copies of the report, including drawings, written descriptions, and photographs, to be endorsed by the RCC Superintendent, as evidence of conditions existing before commencement of work.
- One (1) endorsed copy of each record or report to the RCC Superintendent and keep the other endorsed copy on site.

A post work survey should be undertaken exactly replicating the prework survey.

6.3.4 Site Layout and Interpretation of Technical Inspection

The Contractor is responsible for the setting out of the works according to the Location map, Technical Specification and as pegged on site by Council Officers.

No variations will be allowed for costs in amending errors arising from inaccuracies in setting out or for failure on the Contractor's part to obtain the necessary information and dimensions prior to construction.

It is the Contractor's responsibility to:

- Check all specifications before setting out and proceeding with the work on site.
No variations will be allowed for costs in amending errors arising from inaccuracies in setting out or for failure on the Contractor's part to obtain the necessary information and dimensions prior to construction;
- Notify the RCC Superintendent of any anomalies found so that appropriate rectification can be made in full accordance with the Specification.

6.3.5 Water Usage (Water Tanker Filling Stations)

The Contractor is advised that standpipes are no longer permitted to be used and water tankers etc. are required to use filling stations. Filling stations provide a higher degree of security to the water network and prevent water quality issues.

Redland Water operates potable water tanker filling stations at the following potable water filling stations:

- Fellmonger Park, 101 Sturgeon Street, Ormiston;
- 171 Ney Road, Capalaba;
- Pinklands Sporting Complex, 226 Cleveland-Redland Bay Road, Thornlands;
- 47-49 Orchard Road, Redland Bay; and
- 11 Valley Way, Mount Cotton.

These stations are operated by using the Contractor's credit card at the filling station control panel. This allows water to flow and the controls on the machine enable the customer to control the volume received.

Operation

1. Ensure the outlet valves on the filling station are closed;
2. If you are using the 75mm outlet, ensure that your filling hose is connected at both ends; or
3. If you are using the 25mm outlet, ensure that your filling hose is connected at the valve and the outlet end is secured.
4. Select a \$ value using the UP (+)/DOWN (-) buttons;
5. Press ENTER to confirm selected \$ value;
6. Wave/insert your credit/debit card at card reader;
 - Machine says "Please wait for confirmation";
7. Pre-authorisation approved:
 - Machine says "Thank you and good bye"
8. Press ENTER;
9. Open the outlet valve;
10. Fill your tank;
11. Close the outlet valve;
12. Press FINISH;
 - Machine says "Thank you and good bye";
13. DISCONNECT YOUR HOSE.

Pre-authorisation failure

If your pre-authorisation is declined, there may be insufficient funds available on your card. Please try again with a lower value. If your card is declined again, please contact your card issuer.

Note: Your credit/debit card will be preauthorised for the \$value you select. Once you have completed the transaction, you will only be charged for the water you have taken (minimum charge - \$1.00)

6.3.6 Site Progress Meetings & Minutes

The Contractor must attend a pre-start meeting with the RCC Superintendent prior to possession to the site being granted.

After possession of site, it is mandatory for the Contractor to commence meeting with the RCC Superintendent and/or the Superintendent's Representative at weekly or fortnightly intervals or other mutually agreed times to review project progress against the Program of Works, update project projected cash flow and discuss any other relevant issues.

The Contractor is required to arrange for the attendance of such other members of their staffs, consultants and representative of Subcontractors and Suppliers as may be required. The mandatory meetings should not restrict the need for any additional progress/update meetings required during the construction period.

In addition to the requirements outlined above and under Section 7 Inspection of Works and Hold Points, the RCC Superintendent may schedule additional meetings with the Contractor to discuss issues or seek information about the project. The Contractor will be obliged to attend these meetings.

The RCC Superintendent is required to keep minutes of such meetings and have one copy sent to the Contractor as soon as possible after each meeting. The Contractor's supervisor/foreperson is required to keep copies of site meeting minutes on site.

The Contractor is required to provide to RCC Superintendent with a weekly project report update which is to include photos of the works undertaken, progress of works, any delays and other construction issues.

6.4 Tests

The Contractor is responsible for:

- Conducting all reasonable and relevant tests that may be required by the RCC Superintendent during the progress of the Works or in the Defects Liability Period to show that any part of the Works complies with the specification.
- Provision of all necessary materials, labour and equipment to carry out the test. Field tests is to be prepared, adjusted, and run before the Contractor asks the RCC Superintendent to inspect them.

6.5 Public Notification

The construction and installation of signage is to comply with all relevant legislative codes, regulations and standards including the *Queensland Building Act 1975* and the *Building Code of Australia*.

The Contractor is responsible for ensuring the following public notification is undertaken.

6.5.1 Public Notification (Construction Signage)

- Any signage wording is to be forwarded for review and acceptance by the RCC Superintendent prior to being displayed;
- Prior to commencement of works on site, appropriate signage is erected advising all users of proposed works. The signage is to include:
 - Time and duration of construction; and
 - Name and phone number of Contractor's representative.

6.5.2 Complaints

Should the Contractor receive any complaints they are to notify the RCC Superintendent by phone and follow up in writing details of the complaint and any action taken to resolve the complaint. The

RCC Superintendent will manage any consultation required with the commercial and any general users.

7 INSPECTION OF WORKS IN PROGRESS AND HOLD POINTS

The Contractor is required to give the RCC Superintendent reasonable notice (minimum 2 business days notice) when any part of the work is ready for inspection in order that approval may be given for the work to proceed further.

An inspection by the RCC Superintendent and/or an instruction given or certificate issued by the RCC Superintendent will **not** be deemed to imply that the Principal has assumed or taken over any part of the Contractor's responsibility as defined above.

If any works are completed, filled in or covered up by the Contractor, without the approval, of RCC Superintendent, the RCC Superintendent may have such work rejected and replaced, or opened up and exposed for inspection at the expense of the Contractor.

No variations for delays will be accepted if insufficient time is provided for inspections.

The following inspections/hold points are to be reviewed, carried out and deemed appropriate by the RCC Superintendent prior to commencement of further associated works:

Prior to access or possession of the site

- Pre-start up meeting onsite with Redland City Council officers; and
- Final completed and signed Site-Specific Management Plans.

During construction

- Site Establishment;
- Dilapidation Report (prior to commencement of works);
- Implementation of all Management Plans (including Environmental, Work Health and Safety);
- RCC to provide approval to artwork prior to manufacture; and
- General ongoing site presentation (neat & tidy, free of rubbish and hazards).

Prior to Practical Completion

- General site presentation (visual, free of defects and/or hazards); and
- All completed works functioning correctly.

At End of Defects Liability Period

- General site presentation (visual, free of defects and/or hazards); and
- All completed works functioning correctly.

8 PRACTICAL COMPLETION

A Certificate of Practical Completion will not be issued until all work has been approved by the RCC Superintendent and one (1) hard copy and an electronic copy of the following approved documents are provided in Microsoft Word format and Adobe .pdf format (unless otherwise specified):

1. General on-site works

- Ensure all works completed in accordance with Section 7 Inspection of Works and Hold Points to the approval of the RCC Superintendent;

- Confirmation in writing removal of all temporary fences (if any), stock pile (if any), plant, shed and equipment not forming part of the works; and
- Confirm in writing site resumption to its original condition and protecting from damage the existing physical elements, services, built infrastructure and make good any damage and pay all costs arising there from.

2. **Other documentation**

- Final list of all subcontractors and suppliers (including full contact details) detailing works undertaken and/or items supplied;
- Manuals, guarantees, warranties and maintenance schedules issued with any equipment or structures; and
- “As Constructed details will be picked up by RCC at the completion of works.

Notes:

1. An electronic copy of all documentation required for the purpose of achieving Practical Completion is acceptable in the formats defined above. Depending on the size of the files, please issue documentation using Dropbox (email to pdgprocurement@redland.qld.gov.au) or USB (hand to RCC Superintendent).
2. The Contractor must include all costs associated with the works in the tendered price.

9 DEFECTS LIABILITY PERIOD

The Contractor is responsible for ensuring all works within the defects liability period of Fifty-two (52) weeks are free from defects due to inferior materials and workmanship from the Date of Practical Completion for the duration of the specified term.

The RCC Superintendent will compile and issue to the Contractor, a defect list indicating defects currently outstanding. The list will be updated at regular inspections of the structures by the RCC Superintendent and such Consultant's and Subcontractors whom the Contractor may require from time to time. Inspections will be held at the RCC Superintendent's discretion depending on the number and urgency of the defects currently listed.

All defects reported during the Defects Liability Period are required to be rectified within Ten (10) days from the date of issue of the defect list. Defects which affect safety, health, or which seriously interfere with the essential functions of the structures is to be rectified immediately after they are reported.

Access to occupied areas of the structures for the purpose of rectifying defects will be only at the discretion of the Principal and need to be coordinated with the RCC Superintendent.

10 FINAL COMPLETION

Written instructions for the rectification of works may be issued and a final defects inspection date arranged.

After the RCC Superintendent has undertaken a final inspection and is of the opinion that all work has been performed in accordance with the Contract, the RCC Superintendent will issue to the Contractor a Final Certificate.

11 DOCUMENTATION ISSUED

The Contractor will be responsible for ensuring that all required work (including works detailed, any updates or revisions through the issue of Addendum Notices and/or Tender Submission Clarifications) is completed.

Please read the following documentation in conjunction with this Project Brief:

DOCUMENT REFERENCE	TITLE/DESCRIPTION	Document Reference No.
Appendix A	Redland City Council Eastern Escarpment Trails Concept Map	
Appendix B	Redland City Council Technical Specification	
Appendix C	BAAM Ecological Consultants – Ecological Assessment	Dated 13 March 2017
Appendix D	Signage Details	
Appendix E	Redland City Council Signage Manual - Natural Areas <ul style="list-style-type: none">• Trail Head Markers	RCC-NI-04
Appendix F	Geoweb General Brochure	

CONDITIONS OF CONTRACT

AS2124-1992

AND ANNEXURES

Section A – Part 3 Annexure A General Conditions of Contract

Section A – Part 4 Annexure B Special Conditions of Contract

SHALL APPLY TO

TENDER: PDG-44044-1

**TRACKS & TRAILS – REDLANDS
COAST EASTERN HINTERLAND
EXPERIENCE**

**ANNEXURE to the Australian Standard
General Conditions of Contract**

PART A

This Annexure is to be attached to the General Conditions of Contract and shall be read as part of the Contract.

The law applicable is that of the State or Territory of: Queensland
(Clause 1)

Payments under the Contract shall be made at: Brisbane
(Clause 1)

The Principal: Redland City Council
(Clause 2) ABN 86 058 829 428

The address of the Principal: Cnr Bloomfield and Middle Streets
Cleveland QLD 4163

The Superintendent: Geoff Briese
(Clause 2) Redland City Council

The address of the Superintendent: Cnr Bloomfield and Middle Streets
Cleveland QLD 4163

The Contractor's licence no.: Insert Contractor Name in full
Insert Contractors Address

ABN:
ACN:

Master Builders Association (Qld): Verify and enter
QBCC: Verify and enter
Electrical: Verify and enter
Other: Verify and enter

The address of the Site: Lot 1 (SP200199) 605-679 West Mount Cotton Road,
Mount Cotton and Lot 8 (SP243919) 240D Mount View
Road, Mount Cotton

Preconditions to Practical Completion: Contractor to undertake and supply to the
(Clause 2) Superintendent:

- The Contractor shall be responsible for protecting from damage the existing physical elements, services, built infrastructure and make good any damage and pay all costs arising there from
- Removal of all temporary fences (if required), plant, shed and equipment not forming part of the Works
- Works completed in accordance with Section A – Part 5 Project Brief, sub-sections 7 Inspection of Works in Progress/Hold Points, 8 Practical Completion, 9 Defects Liability Period, 10 Final Completion and Appendices issued

- Deeds of Warranties to be delivered to the Principal (clause 29A.1)
- Training/Instruction (clause 29B) [if applicable]
- Final Subcontractors/suppliers list with full contact details and detailing works undertaken and/or items supplied
- Itemised/detailed ~~costed~~ fixtures, fittings and finishes Schedule for asset capture purposes
- A Visual Acceptance survey will be carried out by the Superintendent upon practical completion

Limits of accuracy applying to quantities for which the Principal accepted a rate or rates: (Clause 3.3(b))

Not Applicable

Site Owner: (Clause 3.7)

Redland City Council (City Spaces as Trustee)

Bill of Quantities—the alternative applying: (Clause 4.1)

Alternative 1 – The Bill of Quantities will only apply to the extent that it will be used as a basis for Payment Certification

The time for lodgement of the priced copy of the Bill of Quantities: (Clause 4.2)

Not Applicable

Contractor shall provide security in the amount of: (Clause 5.2)

5% of the Total Contract Sum is to be held in the form of 2 Bank Cheques or Bank Guarantees for 2.5% of the Contract Sum each

1 x 2.5% Bank Cheque or Bank Guarantee to be returned upon Superintendent approval of Practical Completion (50%); and

1 x 2.5% Bank Cheque or Bank Guarantee to be returned upon Superintendent approval of Final Completion (50%)

Principal shall provide security in the amount of: (Clause 5.2)

Not Applicable

The period of notice required of a party's intention to have recourse to retention moneys and/or to convert security: (Clause 5.5)

Not Applicable

The percentage to which the entitlement to security and retention moneys is reduced: (Clause 5.7)

50%

The number of copies to be supplied by the Principal:

One (1) copy

(Clause 8.3)	
The number of copies to be supplied by the Contractor: (Clause 8.4)	Tender document: One (1) original hard copy lodged online on QTender
	Other documentation is as defined in Section A – Part 5 Project Brief
The time within which the Superintendent must give a direction as to the suitability and return the Contractor's copies: (Clause 8.4)	Ten (10) business days
Work which cannot be subcontracted without approval: (Clause 9.2)	Not Applicable
The percentage for profit and attendance: (Clause 11(b))	10%
The amount or percentage for profit and attendance: (Clause 11(c))	Not Applicable
Excepted latent conditions: (Clause 12.1)	Excepted latent conditions are defined in Annexure Part B Clause 12.1
Approvals to be obtained by the Principal: (Clause 14.5)	Nil
Insurance of the Works—the alternative applying: (Clause 18)	Alternative 1 For the amount not less than the sum of the Contract plus other conditions stated
The assessment for insurance purposes of the costs of demolition and removal of debris: (Clause 18(ii))	Ten per cent (10%) of the Total Contract Sum
The assessment for insurance purposes of consultants' fees: (Clause 18(iii))	Ten per cent (10%) of the Total Contract Sum
The value of materials to be supplied by the Principal: (Clause 18 (iv))	Nil
The additional amount or percentage: (Clause 18(v))	Not Applicable
The amount of motor vehicle insurance (combined limit): (Clause 18A)	Unlimited
The amount of marine insurance (combined limit): (Clause 18B)	Not Applicable
Public Liability Insurance—the alternative applying: (Clause 19)	Alternative 1 (Insurance to be in both names – Principal and Contractor). Must cover the Principal, the

	Contractor, the Superintendent, and all Subcontractors employed in relation to the contract
The amount of Public Liability Insurance shall be not less than: (Clause 19)	Twenty Million Dollars (A\$20,000,000) per claim
The Contractor's Key personnel: (Clause 25)	(a) Construction/Project Manager/Site Foreman: TBC upon tender submission (b) Contract Manager: TBC upon tender submission (c) Workplace Health & Safety Officer: TBC upon tender submission (d) Other: TBC upon tender submission
The time for giving possession of the Site: (Clause 27.1)	Ten (10) Days on the condition that the required documentation as required under the Contract is received by the RCC Superintendent and deemed satisfactory
Hours and days on which the Contractor can access the Site (clause 27.1B(d)):	The hours of operation for the construction of the Works (i.e. operation of any machinery and/or other equipment) shall be restricted to: Monday to Friday between 7.00am and 6.00pm (unless specified in permit conditions) Saturday 7am to 5pm with prior written approval from the Superintendent. No Works shall be undertaken on Sundays or Public Holidays
Special warranties: (Clause 29A)	As specified in Section A – Part 5 Project Brief and AS2124-1992 Annexure Part B Special Conditions of Contract
Commissioning Requirements: (Clause 31A.1)	As specified in Section A – Part 5 Project Brief and tender documents forming part of this Contract
The Date for Practical Completion: (Clause 35.2)	Friday 26 March 2021 (or in accordance with Contractor's Construction Program/Program of Works approved by the RCC Superintendent)
Liquidated Damages per day: (Clause 35.6)	One Thousand, Six Hundred and Seven Dollars and Seventy Six Cents (\$1,607.76) per day
Limit of Liquidated Damages: (Clause 35.7)	Not Applicable
Bonus per day for early Practical Completion: (Clause 35.8)	Not Applicable

Limit of bonus: (Clause 35.8)	Not Applicable
Extra costs for Delay or Disruption: (Clause 36)	Not Applicable
The Defects Liability Period: (Clause 37)	Fifty-Two (52) weeks
The Charge for overheads, profit, etc. for Daywork: (Clause 41(f))	Not Applicable
Times for Payment Claims: (Clause 42.1)	(a) Monthly on the last working day of each month until practical completion; (b) At practical completion; and (c) At the expiry of the last defects liability period. Contractors claim for payment shall be computed from the date of the receipt of the invoice. Council shall pay in accordance with the <i>Building Industry Fairness Act (BIF)</i> terms upon receipt of a valid and correctly submitted invoice.
Unfixed Plant and Materials for which payment claims may be made notwithstanding that they are not incorporated in the Works: (Clause 42.1(ii))	None
Retention Moneys on: (Clause 42.3)	Not applicable
Unfixed Plant or Materials—the alternative applying: (Clause 42.4)	Alternative 3
The rate of interest on overdue payments: (Clause 42.9)	Six per cent (6%)
The delay in giving possession of the Site which shall be a substantial breach: (Clause 44.7)	One Hundred and Twenty (120) Days
The alternative required in proceeding with dispute resolution: (Clause 47.2)	Alternative 1
The person to nominate an arbitrator: (Clause 47.3)	Chairperson or acting chairperson of the Australian Institute of Mediators and Arbitrators (Queensland Chapter)
Location of Mediation: (Clause 47.3)	Brisbane, Queensland, Australia

AS2124-1992

REDLAND CITY COUNCIL

ANNEXURE PART B SPECIAL CONDITIONS to AS2124-1992

TENDER: PDG-44044-1

TRACKS & TRAILS – REDLANDS COAST EASTERN HINTERLAND EXPERIENCE

The Principal and the Contractor agree:

- (a) these Annexure Part B [Special Conditions] shall be read with AS2124-1992 (“**AS2124**”) General Conditions of Contract;
- (b) references in these Special Conditions or in AS2124 to Annexures or Items shall be taken to be references to the Special Annexures;
- (c) the terms of AS2124 are amended as follows.

The headings and numbers that appear in bold in the following pages are references to the clause headings and clause numbers that are amended by these Special Conditions.

1. Construction of Contract

Delete the following words from the first paragraph:

"agreement to arbitrate and the conduct of any arbitration or".

2. Interpretation

Add after the end of **Bill of Quantities'** definition, the following:

'BIF Act' means the *Building Industry Fairness (Security of Payment) Act 2017 (Qld)* and any of its regulations;

'Business Day' means any day that is not:

- (a) a Saturday, Sunday, bank or public holiday or a special holiday in Redland City; and
- (b) for the purposes of clause 42, occurring in the period between 22 December and 10 January (inclusive).

Add to the end of the definition of **"Date of Acceptance of Tender"**, the following:

"or if there has been no written notice of acceptance of tender, then the date the Contract is entered into by the parties".

Delete the words **"arbitration or"** where they appear in the definition of **"Date for Practical Completion"** and **"Date of Practical Completion"**.

Add after the end of the definition of **'Drawings'** the following:

'Final Certificate' has the meaning given to it in clause 42.8 and is also a payment schedule.

'Final Payment Claim' has the meaning given to it in clause 42.7 and is also a payment claim.

Add after the end of the definition of **'person'**, the following:

'payment claim' has the meaning given to it in the BIF Act and includes a Final Payment Claim.

'payment schedule' has the meaning given to it in the BIF Act and includes a Final Certificate.

Add to the end of the definition of **"Practical Completion"**, the following:

- "(d) the Contractor has provided to the Superintendent any approvals, consents or certificates relating to and necessary for the completion, use or occupation of the Works (other than those expressly required to be obtained by the Principal under the Contract);
- (e) the Contractor has provided to the Superintendent each of the documents required to be provided under the Contract as a precondition to Practical Completion;
- (f) the Contractor has successfully completed to the satisfaction of the Superintendent, all commissioning required by the Contract;
- (g) the Contractor has removed all rubbish and surplus material from the Site;
- (h) the Works or any relevant part of the Works are accepted as completed by all relevant municipal, public or other statutory authorities ("**Authorities**"); and
- (i) any other conditions which the Contract requires to be satisfied as a precondition to Practical Completion, have been satisfied;"

Add after the end of **'Temporary Works'** definition, the following:

'Utility Service' means any utility service, including water, treated water, electricity, gas, LPG, telephone, drainage, waste, sewerage and electronic communications (including fibre optic feeds or cables).

3. Nature of Contract

Add to the end of Clause 3.1, the following:

"The Contract Sum and any rates to be applied in calculating the Contract Sum (together with any additions or deductions expressly provided for by the Contract):

- (a) Includes all costs, expenses, fees and charges incurred by the Contractor in performing all of its obligations under the Contract; and
- (b) Will not be subject to any adjustment for rise and fall in costs."

Add after Clause 3.3, the following clauses:

"3.4 Contractor's Warranties

The Contractor warrants that:

- (a) it is suitably skilled, qualified and experienced to execute and complete the work under the Contract;
- (b) it will at all times exercise due skill, care and diligence in the execution and completion of the work under the Contract;
- (c) it has obtained all necessary information as to risks, contingencies and other circumstances which could have an effect on the performance and cost of executing the work under the Contract and the restrictions with which the Contractor must comply on Site;
- (d) it has informed itself completely of the nature of the work and materials necessary for the execution of the work under the Contract and the means of access to and facilities at the Site and the transport facilities for deliveries to or from the Site and the suitability of any work methods it proposes to use for the Works;
- (e) it has informed itself of all requirements of authorities in relation to the Works generally, including any measures which are necessary to protect the environment from any adverse effect or damage arising from execution of the work under the Contract; and
- (f) it has obtained all appropriate professional and technical advice on all matters and circumstances in respect of the matters referred to in this Clause prior to executing this Contract.

3.5 Warranties Unaffected

The Contractor acknowledges and agrees that:

- (a) the warranties in Clause 3.4 and the Contractor's other guarantees, warranties, obligations and liabilities under the Contract remain unaffected; and
- (b) the Contractor will bear and continue to bear all liability and responsibility in accordance with the Contract for the execution and completion of the work under the Contract, notwithstanding any one or more of the following:
 - (i) any receipt or review of, or comment or direction on, or rejection or approval of, or expression of satisfaction or dissatisfaction, or permission to use or deemed permission to use in relation to any other document provided by the Contractor,
 - (ii) the making available to or the provision to the Contractor by or on behalf of the Principal or the Superintendent of any information;
 - (iii) any variation under Clause 40 or any refusal by the Superintendent to direct a variation under that Clause.

3.6 No Duty of Care or Liability Imposed

No review, comment, approval, consent, rejection, refusal, permission to use, deemed permission to use, permission to proceed, expression of satisfaction or dissatisfaction, supervision or superintendence by or on behalf of the Principal or the Superintendent concerning any document provided by the Contractor or any aspect of the work under the Contract, nor any failure by the Principal or the Superintendent to do any of those things, shall:

- (a) limit or exclude any obligation or liability of the Contractor;
- (b) prejudice any of the Principal's rights against the Contractor;

- (c) impose on the Principal or the Superintendent any duty of care to the Contractor (whether in contract or in tort);
- (d) result in the Principal or the Superintendent assuming any responsibility or liability for:
 - (i) the adequacy, quality, compliance or fitness of the Works or of any document provided by the Contractor; or
 - (ii) any errors in or omissions from any document or the Works; or
- (e) constitute an admission that the Principal, the Superintendent or any of their agents or employees have checked any document or work for errors, omissions or compliance with the requirements of the Contract.

3.7 Obligations to benefit Site Owner

- (a) In this Contract, "**Site Owner**" means each of the entities set out in Annexure A, Part A being an entity owning or having an interest in the Site or part of the Site. If no entities are named in Annexure Part A, this clause does not apply.
- (b) The Contractor agrees:
 - (i) to indemnify the Site Owner in the terms of all indemnities given by the Contractor to the Principal under the Contract;
 - (ii) to ensure that all policies of insurance required to be effected by the Contractor under the Contract, are also effected in the name of each entity comprising the Site Owner as a separate insured party (with the exception of insurance for the Contractor's employees and workers and the Contractor's motor vehicles); and
 - (iii) to ensure that all warranties to be provided by the Contractor to the Principal in writing also name the Site Owner as an additional party benefiting from the warranties."

4. Bill of Quantities

Delete Clause 4.4.

5. Security

Add at the end of clause 5.1, the following:

'and for the purposes of providing security of payment to subcontractors of the Contractor (as those terms are defined in the BIF Act).'

Delete Clause 5.3 and replace with the following:

"The security shall be:

- (a) in the form of an unconditional undertaking; and
- (b) given by a financial institution or insurance company, as approved by the Principal, in its absolute and sole discretion.

The Contractor shall pay all costs (including all stamp duty or other taxes) of and incidental to providing the security."

Replace the reference to 28 days in Clause 5.4 with 14 days.

Delete Clause 5.5 and replace with the following:

"5.5 Recourse to Retention Monies and Conversion of Security

The Principal may, in its absolute discretion, convert into money at any time any security and may have recourse to the whole or any part of the security or retention moneys whenever the Principal:

- (a) claims it has become entitled to exercise a right under the Contract in respect of the security or retention moneys; or
- (b) claims that moneys are owing to it by the Contractor whether under this Contract, as damages for a breach of this Contract by the Contractor or otherwise at law; or

- (c) must comply with obligations under Chapter 4 of the BIF Act; or
- (d) is otherwise entitled at law to have recourse to the retention moneys or security, and the Principal will not be liable in any way for any loss occasioned by that action.

Without limiting the unconditional nature of retention moneys or the security, the Contractor:

- (a) acknowledges that the Principal may have recourse to retention moneys and/or any security and may convert into money any security held under the Contract at any time.

Add to the end of Clause 5.7, the following:

"If the value of Security or retention money (separately or cumulatively) held by the Principal after Practical Completion is in excess of 2.5% of the Contract Sum, the Contractor acknowledges and agrees that for the purposes of section 67N of the Queensland Building and Construction Commission Act 1991 (Qld), the amount in excess of 2.5% of the Contract Sum after practical completion of the building work is reached is not held to correct Defects during the Defects Liability Period but is to ensure due and proper performance of the Contract and to compensate the Principal for any damage it may suffer as a result of a breach of this Contract by the Contractor."

Delete Clause 5.9 and replace with the following:

"5.9 Interest on Security and Retention Monies

The Principal:

- (a) shall own any interest earned on any moneys resulting from the conversion into money of any security provided by the Contractor or on the retention moneys held pursuant to the Contract; and
- (b) shall not hold or retain any such moneys, retention moneys or interest upon trust for the Contractor or upon any other trust and the Contractor shall not have any beneficial interest in such moneys, retention moneys or interest; and
- (c) shall not be obliged to invest any such moneys, retention moneys or interest or to account for any advantage derived through holding or retaining such moneys, retention moneys or interest or to hold any such moneys, retention moneys or interest in a separate or any particular account."

Add after Clause 5.10, the following clauses:

"5.11 Quantum of Security and Retention Moneys

This Contract is not subject to the condition that would otherwise be implied by section 67K(2) of the *Queensland Building and Construction Commission Act 1991* (Qld). Section 67K(2) implies a condition into building contracts that the total value of Security and retention moneys is not to be more than 5% of the contract price, unless the contract expressly provides otherwise. Under this Contract, the quantum of security and retention moneys to be provided by the Contractor is governed by the terms of this Clause 5 and Clause 42.

Initialled for and on behalf of the Contractor

Initialled for and on behalf of the Principal

5.12 Retention of Security

Despite any other provision of the Contract:

- (a) the Principal may continue to hold security where the Contract may otherwise require it to be released or after termination of the Contract for any reason to the extent of any amount claimed by the Principal under or in connection with the Contract (whether liquidated or otherwise);
- (b) where the Contract is terminated by reason of the Contractor repudiating the Contract, being in substantial breach of the Contract, or having an event referred to in clause 44.11 occur in respect of it, the Principal may have immediate recourse to the security after termination for any claim to money which the Principal may have against the Contractor whether for damages (including liquidated damages) or otherwise; and
- (c) where the Contract is terminated in circumstances other than those referred to in sub-clause (b), the Principal may have recourse to the security after termination where the Contractor fails to pay any amount which becomes due to the Principal within the agreed period for payment, or if no period is agreed, within 14 days."

5.13 No Payment Until Security Lodged

The Principal may refuse to make any payment otherwise due to the Contractor until the Contractor has fully complied with its obligations to lodge security under Clause 5.2."

6. Evidence of Contract

Delete the first paragraph of Clause 6.2.

Add to the end of Clause 6.2 the following:

"Notwithstanding any other provision of this Contract, the Principal shall not be obliged to make any payment to the Contractor until the Contractor executes and returns to the Principal the Formal Instrument of Agreement submitted to it pursuant to this Clause 6.2."

7. Service of Notices

Delete Clause 7 and replace with the following:

"Notice will be taken to be given or made:

- (a) in the case of delivery in person, when delivered;
- (b) in the case of delivery by post, two Business Days after the date of posting;
- (c) in the case of delivery by fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax machine number or name of recipient and indicating that the transmission has been made without error; and
- (d) in the case of delivery by email, when the sender receives an email receipt or other confirmation from the recipient to the sender which indicates that the email was received at the email address of the recipient,

but if the result is that a notice would be taken to be given or made on a day that is not a Business Day in the place to which the notice is sent or is later than 4pm (in that place) it will be taken to have been given or made at the commencement of business on the next Business Day in that place.

Any party may change the address, facsimile number or email address to which notices can be sent to that party by informing the other parties of such change in accordance with this Clause.

Any notice given to the Contractor's representative shall be deemed to have been given to the Contractor."

8. Contract Documents

Delete the second paragraph of Clause 8.1.

Add to the end of Clause 8.1, the following:

"The Contractor agrees:

- (a) it has fully audited all documents forming part of the Contract and all documents relevant to the carrying out of the work under the Contract or completion of the Works provided or made available to the Contractor prior to the Date of Acceptance of Tender ("**Construction Documents**"); and
- (b) it will immediately upon receipt by it of any further documents relevant to the carrying out of the work under the Contract or completion of the Works ("**Additional Construction Documents**") carry out a full audit of the Additional Construction Documents, for the purposes of satisfying itself that the Construction Documents and Additional Construction Documents are:
 - (i) adequate and sufficient for the Contractor to carry out the work under the Contract and complete the Works in accordance with the Contract; and
 - (ii) not inconsistent with each other and that none of the documents contain inconsistencies or ambiguities within them.

The Contractor shall not be entitled to any claim for an extension of time or adjustment to the Contract Sum or any other claim arising from:

- (i) any inconsistency, ambiguity, discrepancy or inadequacy in the Construction Documents or any direction given by the Superintendent under this clause in relation to the Construction Documents; or

- (ii) any inconsistency, ambiguity, discrepancy or inadequacy in any Additional Construction Documents or any direction given by the Superintendent under this clause in relation to the Additional Construction Documents, to the extent that the Contractor has not notified the Superintendent of the inconsistency, ambiguity, discrepancy or inadequacy within 7 days after receipt by the Contractor of the Additional Construction Documents and before the Contractor relies on the Additional Construction Documents in connection with the carrying out of the work under the Contract."

Add to the end of Clause 8.3, the following:

"Without limiting its other obligations under this clause, the Contractor must not:

- (a) disclose to any person; or
- (b) use for any purpose other than the carrying out of the work under the Contract, any of the contents of the Contract or any other information obtained by the Contractor in the course of or in connection with it carrying out work under the Contract unless:
- (i) the Principal has given its prior consent in writing; or
- (ii) such disclosure or use is required by law.

The Contractor's obligations under this clause apply after the issue of a final certificate or termination of the Contract for any reason."

Add after Clause 8.7, the following:

"8.8 Principal-Supplied Information

In this clause, "**Principal-Supplied Information**" means any information (whether documented or otherwise) supplied or made available to the Contractor by or on behalf of the Principal before or after the Date of Acceptance of Tender. It does not include information in documents forming part of the Contract.

The Contractor agrees:

- (a) unless the Principal expressly agrees otherwise in writing, any Principal-Supplied Information:
- (i) has been or will be provided only for the Contractor's convenience; and
- (ii) has not been and will not be relied upon by the Contractor for any purpose (including entering into the Contract or performing its obligations under the Contract);
- (b) the Principal does not:
- (i) assume any responsibility or duty of care in respect of; or
- (ii) warrant, guarantee or make any representation as to, the Principal-Supplied Information (including its accuracy, completeness or adequacy for the purposes of the Contract);
- (c) the Principal shall not be liable to the Contractor in contract, tort, equity, under statute or otherwise arising from or in connection with the Principal-Supplied Information, the provision of the Principal-Supplied Information or the non-provision of any other information by the Principal; and
- (d) except as expressly provided by the Contract, the Contractor shall not be entitled to any extension of time, adjustment to the Contract Sum or other claim arising from or in connection with the inaccuracy, incompleteness or inadequacy of the Principal-Supplied Information.

8.9 As Built ('As Constructed') Drawings

As a pre-requisite to achieving Practical Completion, the Contractor shall supply to the Superintendent one (1) complete set of 'As Constructed' drawings showing the levels, lines, positions and dimensions of the Works as built. The 'As Constructed' drawings shall be provided both as 1 (one) hard copy set and 1 (one) electronic set in the format detailed in the Project Brief or as directed by the Superintendent.

9. Assignment and Subcontracting

Delete the following words which appear in Clause 9.2:

"which approval shall not be unreasonably withheld,"

Add to the end of Clause 9.2:

"For the avoidance of doubt, the Superintendent shall not be required to give the Contractor written notice of approval or of the reasons why approval is not given, unless the Contractor has complied with its obligations under this clause.

The Contractor agrees to assign or novate its rights and obligations in the subcontract to the Principal or a nominee of the Principal and sign any documents required by the Principal to give effect to such assignment or novation if both:

- c) the work is taken out of the hands of the Contractor or the Principal terminates the Contract for any reason; and
- d) the Principal directs the Contractor to do so."

Add to the end of Clause 9.3, the following:

"Any matter within the reasonable control of any subcontractor shall be taken to be within the reasonable control of the Contractor."

11. Provisional Sums

Add to the beginning of Clause 11 the following:

"The Contractor shall:

- (a) provide the Superintendent with the Contractor's estimate of the likely cost of the carrying out or supply by the Contractor of the work or item to which a provisional sum relates when requested to do so by the Superintendent; and
- (b) comply with the reasonable directions of the Superintendent in respect of the subcontracting or procurement of the work or item to which a provisional sum relates."

12. Latent Conditions

Replace Clause 12.1 with the following:

"12.1 Definition

Latent Conditions means:

- (a) All physical conditions of the Site and its near surroundings, including below ground conditions, all natural and artificial things, facilities and Utility Services but excluding weather conditions, which could not have been detected by a skilled, experienced and competent contractor exercising good industry practice and experienced in carrying out work similar to the WUC at sites similar to the Site after:
 - (i) inspecting the Site;
 - (ii) examining any information relevant to the latent conditions which is supplied or made available to the Contract by or on behalf of the Principal whether or not the information comprises part of the Contract and whether the information was provided to the Contractor before or after entry into the Contract; and
 - (iii) making all reasonable enquiries and investigation; and
- (b) any other conditions which the Contract specifies to be latent conditions,

but excluding Excepted Latent Conditions.

"**Excepted Latent Conditions**" are:

- (a) those conditions identified in the Contract as Excepted Latent Conditions; and
- (b) other conditions or risks for which a provisional sum has been allowed in the Contract.

Replace Clause 12.2 with the following:

"12.2 Notification

The Contractor shall, upon becoming aware of a Latent Condition or an Excepted Latent Condition give the Superintendent a written statement of:

- a) the nature of the Latent Condition or Excepted Latent Condition encountered and in the case of a latent condition, the respects in which it differs materially;
- b) in the case of a Latent Condition, the Contractor's estimate of the additional work necessary to deal with the Latent Condition (including additional time and cost); and
- c) other details reasonably required by the Superintendent,

within 7 days after the Contractor becomes aware of the latent condition or Excepted Latent Condition and (except in an emergency) before the Contractor takes any action to deal with the Latent Condition or Excepted Latent Condition in connection with the carrying out of the work under the Contract (**Latent Conditions Notice**).

If, in the case of a Latent Condition, the Contractor does not comply with the requirements of this clause within the required times, Clause 12.3 shall not apply and the Contractor shall not be entitled to any extension of time, adjustment of the Contract Sum or any other claim in connection with the Latent Condition (including any additional work required by the Latent Condition) or any direction of the Superintendent arising from the Latent Condition.

The Contractor shall promptly provide to the Superintendent in writing any other details regarding a Latent Condition or Excepted Latent Condition requested by the Superintendent."

Replace Clause 12.3 with the following:

"On receipt of the Latent Conditions Notice, the Superintendent shall promptly investigate the Latent Conditions and determine whether any variation is necessary and if so, shall take action in accordance with Clause 40.

The giving of the Latent Conditions Notice in accordance with the requirements of Clause 12.2 (including within the specified time) is a condition precedent to any entitlement by the Contractor to Claim in relation to encountering Latent Conditions."

Replace Clause 12.4 with the following:

"12.4 Acceptance of Excepted Latent Condition Risk

The Contractor agrees that:

- (a) the Contractor accepts the risk of all Excepted Latent Conditions; and
- (b) the Contractor shall have no entitlement to any extension of time, valuation under clause 40.5, other adjustment to the Contract Sum or other claim whatsoever arising from the existence of any Excepted Latent Condition (whether or not it should have been anticipated at the time of the Contractor's tender).

Add after Clause 12.4, the following clauses:

"12.5 No Warranty or representation by Principal

Without limiting clause 8.8, the Principal does not warrant, guarantee or make any representation with respect to, and the Contractor warrants that it has not placed any reliance upon, the completeness, accuracy, adequacy or content of any information or data made available or provided to the Contractor as to the Site or sub-surface conditions.

12.6 Site Information not part of Contract

No information in respect of the Site or sub-surface conditions which is provided to the Contractor by the Principal, the Superintendent, or their respective employees, consultants or agents shall form part of the Contract.

13. Patents, Copyright and Other Intellectual Property Rights

Add to the end of Clause 13, the following:

"The Contractor:

- (a) grants to the Principal;
- (b) shall ensure that the person legally entitled to do so grants to the Principal; and
- (c) shall do all reasonable things necessary to give effect to the grant to the Principal,

an irrevocable, royalty free and fully assignable licence to use any designs, materials, documents and methods of working provided by the Contractor for the purposes of construction of, using, maintaining, upgrading, altering or otherwise dealing with the Works.”

14. Statutory Requirements

Add after the first paragraph of Clause 14.1, the following:

“The Contractor shall provide to the Superintendent evidence of its compliance with the requirements of any relevant legislative requirements when requested by the Superintendent.”

Add to the end of Clause 14.2, the following:

“A reduction in cost assessed by the Superintendent may be deducted from the Contract Sum even though the legislative requirement could reasonably have been anticipated by an experienced and competent contractor unless the Contractor has expressly stated in its tender for the Works that the tendered Contract Sum has been based upon the anticipated change in legislative requirement occurring.”

Add after Clause 14.4, the following clauses:

14.5 Contractor to Obtain Approvals

The Contractor shall procure and pay for all certificates, licences, consents, permits and other approvals:

- (a) necessary for the lawful carrying out of the work under the Contract; or
 - (b) relating to the completion, occupation or use of the Works,
- other than the certificates, licences, consents, permits and other approvals expressly referred to in the Contract as being the responsibility of the Principal.”

14.6 Workplace Health and Safety Act

For the purposes of Clause 14.6, the words "dangerous event", "principal contractor", "serious bodily injury", "work-caused illness" and "work injury" have the meanings assigned to them by the *Workplace Health and Safety Act 2011* (the "Act").

The Contractor will be appointed as the Principal Contractor for this project under *section 293* of the *Workplace Health and Safety Regulations 2011*. Principal Contractor duties are specified on the Workplace Health and Safety Queensland website www.worksafe.qld.gov.au

Upon the Date of Acceptance of Tender

- (a) the Principal is deemed to have appointed the Contractor to be the Principal Contractor pursuant to Section 13 of the Act;
- (b) the Contractor is deemed to have accepted the appointment; and
- (c) the Contractor, in respect of the work to be executed under the Contract, becomes responsible for the performance of the principal contractor's functions under the Act and under the Regulations and compliance standards in force under the Act.

The Contractor's appointment as Principal Contractor shall continue until the Contractor completes all of the work under the Contract unless sooner revoked by the Principal taking over or terminating the Contract pursuant to any provision of the Contract or according to law.

The Contractor indemnifies the Principal against all liabilities which may be imposed under or which may arise out of enforcement of any section of the Act or Regulations.

The Contractor must notify the RCC Superintendent of every work-caused illness or work injury and of every dangerous event and serious bodily injury which occurs on the Site as soon as possible but not later than 12 hours after such occurrence.

14.7 Taxes, Duties and Charges

Subject to the other provisions of the Contract, the Contractor shall:

- (a) pay and indemnify the Principal against all sales tax, customs duties, stamp duties, goods and services tax and other duties, charges, taxes or imposts payable in connection with the carrying out of the work under the Contract (including the provision of all work under the Contract); and

- (b) provide all security required under any legislative requirement as security for the payment of any duties, charges, taxes or imposts.

14.8 ABN Withholding

- (a) Where the Principal may become obliged under any law or legislative requirement to withhold any amount on account of tax or other imposts from any amount payable to the Contractor under or in connection with the Contract unless certain conditions (including without limitation the provision by the Contractor of an Australian Business Number ("ABN") are met, the Principal may withhold the amount required to be withheld under the law or legislative requirement until the Principal is satisfied in its reasonable opinion that all the relevant conditions have been satisfied.
- (b) If the Principal for any reason becomes liable to pay an amount referred to in paragraph (a):
- (i) the amount paid by the Principal to any Commonwealth, State or Local Government department, body, instrumentality or other government, authority or statutory body shall be taken to have been paid by the Principal to the Contractor on account of and in satisfaction of amounts payable under the Contract; and
 - (ii) if the amount paid by the Principal exceeds any amounts payable by the Principal to the Contractor under the Contract, the amount of the excess shall be a debt due from the Contractor to the Principal.

14.9 Portable Long Service Leave Levy and other levies

The Principal shall pay any all levies and fees required by any legislative requirement to be paid by a "principal" under a contract for construction or building work (including, Portable Long Service Leave Levy and Workplace Health and Safety Fee). The Contractor shall not be required to reimburse the Principal for such moneys irrespective of any other provision under this Contract.

14.10 Environmental Protection

The Contractor shall:

- (a) take all action necessary to protect and preserve the environment from harm or damage arising from or in connection with the carrying out of the work under the Contract;
- (b) comply with all:
 - (i) legislative requirements relating to the protection or preservation of the environment; and
 - (ii) environmental management plans provided by or on behalf of the Principal to the Contractor or provided by the Contractor and approved by the Principal;
- (c) obtain all approvals or licences required and pay and indemnify the Principal against all fees, fines or other amounts payable under all environmental protection or preservation legislative requirements (including in connection with any applicable approvals or licences); and
- (d) to the maximum extent permitted by law, indemnify and keep indemnified the Principal and its employees and agents against all claims, demands, actions, costs (including legal costs), charges, expenses, damages, loss or other liability (including without limitation in tort, under any law, in respect of making good environmental damage or in defending claims) arising from or contributed to by:
 - (i) acts or omissions of the Contractor, its employees, its subcontractors or their employees (whether wilful, negligent or otherwise);
 - (ii) breach by the Contractor of its obligations under this Clause; or
 - (iii) the carrying out of the work under the Contract.

14.11 Fire Ants

Without limiting the generality of Clause 14.1, the Contractor shall:

- (a) in executing the work under the Contract, comply with any direction given by an inspector under the *Biosecurity Act 2014* or the *Biosecurity Regulation 2016*;
- (b) in executing the work under the Contract, obtain and comply with any approvals required under the *Biosecurity Act 2014* or the *Biosecurity Regulation 2016*;

- (c) in executing the work under the Contract, comply with Council's Environmental Management System obligations, activities and permit requirements. Please contact Council's EMS Co-ordinator on (07) 3829 8571 to discuss;
- (d) if Fire Ants are discovered, or their presence is suspected:
- (i) immediately cease all work in the area affected or suspected to be affected by Fire Ants. Work in the affected area shall not be re-commenced until the Contractor is directed to do so by the Superintendent;
 - (ii) report the presence or suspicion of Fire Ants to the Department of Agriculture and Fisheries:
 - (A) in the first instance by telephoning **13 25 23** within 24 hours of discovery of the presence of Fire Ants or within 24 hours of becoming suspicious of the presence of Fire Ants; and
 - (B) subsequently in writing within 7 days of discovery of the presence of Fire Ants or within 7 days of becoming suspicious of the presence of Fire Ants;
 - (iii) report the presence or suspicion of Fire Ants to the Principal:
 - (A) immediately upon discovery or upon becoming suspicious of the presence of Fire Ants by telephoning (07) 3403 0999; and
 - (B) subsequently in writing within 7 days of discovery of the presence of Fire Ants or within 7 days of becoming suspicious of the presence of Fire Ants;

For the purposes of this clause, "**Fire Ants**" has the meaning given by the *Biosecurity Regulation 2016*.

14.12 Industrial Relations

The Contractor shall at its own cost and expense:

- (a) ensure all employees (including employees of subcontractors) carrying out the work under the Contract are employed in accordance with any applicable industrial legislative requirement, award or agreement;
- (b) actively manage and do all things necessary to avoid disputes or disturbance in industrial relations; and
- (c) upon request by the Principal, consult fully with the Principal in connection with any actual or potential industrial dispute or disturbance.

14.13 Cultural Heritage

If any articles considered to be artefacts are identified during the performance of the Works the Contractor shall notify the Superintendent immediately. If the Superintendent directs cessation of activities within the vicinity of the article:

- (a) the Contractor shall make every reasonable effort to continue the Works outside the vicinity. The Contract shall cease work within the vicinity and only resume activities in the vicinity once directed to do so by the Superintendent; and
- (b) the Contractor shall (upon request from the Superintendent) reschedule the Works and submit a revised Construction Program showing how the remaining Works may be completed by the Date for Practical Completion due to the cessation of activities.

Council will organise all cultural heritage requirements and pay for cultural heritage monitor fees. The Contractor shall coordinate and liaise with the cultural heritage monitors during the Works for the purpose of fulfilling the cultural heritage obligations of the Principal.

14A. Building Industry Fairness (Security of Payment) Act

14A.1 Service of Notices under the BIF Act

The Contractor shall:

- (a) ensure that a copy of any written communication it delivers or arranges to deliver to the Principal of whatever nature in relation to the *BIF Act* (including, without limitation, a payment claim), is provided to the Superintendent at the same time; and

- (b) promptly and without delay give the Superintendent a copy of any written communication of whatever nature in relation to the *BIF Act* (including, without limitation, a payment claim) which the Contractor receives from a Subcontractor.

14A.2 Principal's Agent

In responding to the Contractor under the *BIF Act*, the Superintendent also acts as the agent of the Principal.

14A.3 Suspension of Works under the BIF Act

If the Contractor suspends the whole or part of the work under the Contract pursuant to the *BIF Act*:

- (a) the suspension shall not affect the Date for Practical Completion but may be a ground for an extension of time under Clause 35.5;
- (b) the Principal may, in its absolute discretion, take the whole or any part of the work under the Contract out of the hands of the Contractor to ensure that the work under the Contract continues during the suspension; and
- (c) subject to any payment owed under the *BIF Act*, the Principal shall not be liable for and the Contractor agrees it will not suffer any costs, expenses, damages, losses or other liability whatsoever as a result of the suspension or as a result of the Principal exercising its right under clause 14A.3(b).

14A.4 Subcontractor Suspension

If the Principal becomes aware that a Subcontractor is entitled to suspend work (which forms part of the Works) pursuant to the *BIF Act*, the Principal may (in its absolute discretion) pay the Subcontractor such money that is or may be owing to the Subcontractor in respect of that work, and any amount paid by the Principal shall be a debt due from the Contractor to the Principal.

14A.5 Indemnity

The Contractor shall indemnify the Principal, its officers, employees and agents against all damage, expense (including lawyers fees and expenses on an indemnity basis), loss or liability of any nature suffered or incurred by the Principal arising out of:

- (a) a suspension by a Subcontractor of work which forms part of Works pursuant to the *BIF Act*; and
- (b) a failure by the Contractor to comply with its obligations under this Clause 14A.

14A.6 Subcontractors' charges

The Principal may, at any time, pay any amount of the Contract Sum or security (including, but not limited to, retention moneys) directly to a worker or a subcontractor of the Contractor, or into court, if the Principal is required or permitted to do so under the *BIF Act*.

Any amount paid by the Principal pursuant to this clause is deducted from the Contract Sum or the security, and the Contractor will have no recourse against the Principal for any loss suffered due to the Principal acting in accordance with this clause.

14B. Personal Property Securities Act 2009

The words 'Accession', 'Comingled', 'Financial Statement', 'Grantor', 'Personal Property', 'Proceeds', 'Security Interest' and 'Verification Statement' have the meaning given to them in the PPSA.

The parties acknowledge that this Contract may constitute a Security Interest in favour of the Principal.

If the Principal determines that this Contract (or a transaction in connection with it) is or contains a Security Interest, the Contractor agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which the Principal asks and considers necessary for the purposes of:

- (a) ensuring that the Security Interest is enforceable, perfected and otherwise effective;
- (b) enabling the Principal to apply for any registration, complete any Financial Statement or give any notification, in connection with the Security Interest; or
- (c) enabling the Principal to exercise rights in connection with the Security Interest.

The Principal is not required to give any notice under the PPSA (including notice of a Verification Statement) unless the notice is required by the PPSA to be given (even though the parties have waived the right to receive notice).

The Contractor must notify the Principal as soon as the Contractor becomes aware of any of the following:

- (a) if any Personal Property which does not form part of the Principal's Personal Property becomes an Accession to the Principal's Personal Property and is subject to a Security Interest in favour of a third party, that has attached at the time it becomes an Accession;
- (b) if any of the Principal's Personal Property is located or situated outside Australia or, upon request by the Principal, of the present location or situation of any of the Principal's Personal Property; or
- (c) if the Contractor parts with possession of the Principal's Personal Property.

The Contractor must not:

- (a) create any Security Interest or lien over any Personal Property that the Principal has an interest in (other than security interests granted in favour of the Principal);
- (b) sell, lease or dispose of its personal property that the Principal has a Security Interest in;
- (c) give possession to the Contractor's Personal Property that the Principal has a Security Interest in or the Principal's Personal Property to any other person except where the Principal expressly authorises it to do so;
- (d) permit any of the Principal's Personal Property to become an Accession to or Comingled with any asset that is not part of the Works or the Site; or
- (e) change its name without first giving the Principal 15 Business Days' notice of a new name or relocate its Principal place of business outside Australia or change its place of registration or incorporation.

Everything the Contractor is required to do under this Clause 14B is at the Contractor's expense.

Neither the Principal nor the Contractor will disclose information of the kind mentioned in section 275(1) of the PPSA and the Contractor will not authorise, and will ensure that no other party authorises, the disclosure of such information. This Clause 14B does not prevent disclosure where such disclosure is required under section 275 of the PPSA because of the operation of section 275(7)(b), (d) and (e) of the PPSA.

15. Protection of People and Property

Add after the second paragraph of Clause 15, the following:

"Without limiting any of the Contractor's other obligations, the Contractor shall also avoid and minimise disruption or interference in any way with the operations carried on from existing improvements on or about the Site (including without limitation, the operation of tenants or other occupants of existing improvements (if any))."

Add to the end of Clause 15, the following:

"The Contractor shall indemnify the Principal against any costs, damages, loss, claim or liability arising from the Contractor's breach of this clause."

15A. Special Protection Obligations

Add to the end of Clause 15, the following:

"15A Special Protection Obligations

15A.1 Dial Before You Dig

Without limiting the obligations imposed by clause 15, should it be necessary for the Contractor to carry out any excavation work in the course of carrying out the work under the Contract, the Contractor shall:

- (a) before commencing any excavation work, contact the relevant authorities to determine what services (if any) will be affected by the excavation;

- (b) ensure that the excavation work is carried out so as not to damage or interfere with any services in or near the vicinity of the area in which the excavation work is carried out;
- (c) promptly make good any damage to any services as a result of the Contractor's excavation; and
- (d) indemnify the Principal in respect of all demands, claims, costs, expenses, damages and other liabilities arising from the breach of the Contractor of the provisions of this Clause (including without limitation any claim by a provider or user of any services damaged as a result of the Contractor's excavation).

15A.2 Asbestos

Should the Contractor, in the execution of the work under the Contract, discover or suspect the presence of asbestos or other dangerous materials or items, the Contractor shall:

- (a) immediately stop work in the area in which asbestos or other dangerous materials or items are discovered or suspected to exist;
- (b) secure the area in which asbestos or other dangerous materials or items are discovered or suspected to exist;
- (c) report the incident to the Principal; and
- (d) only recommence the work in the affected area when directed to do so by the Principal and in accordance with any requirements of the Principal."

17. Damage to persons and property other than the Works

Add to the end of Clause 17.2, the following:

"except where the claims arose because of any breach, act or omission of the Contractor or its subcontractors".

18. Insurance of the Works

Add to end of Clause 18 (Alternative 1) the following paragraph:

"Upon payment of moneys pursuant to the insurance effected under this Clause:

- (a) the Contractor shall immediately proceed to reinstate the Works and to continue the execution and completion of the work under the Contract;
- (b) the Contractor's entitlement to payment for work performed in reinstating the Works shall not exceed the amount paid by the insurer in respect of the insurance effected under this Clause, but excluding any amounts paid in respect of the insurance effected for the sums referred to in subparagraphs (iii) to (v) of this Clause."

18A. Insurance of Motor Vehicles

Add after Clause 18, the following:

"18A. Insurance of motor vehicles

Before the Contractor commences the work under the Contract, the Contractor shall effect motor vehicle third party bodily injury and property damage liability insurance in respect of all vehicles to be used by the Contractor (whether owned, rented or leased) in connection with the work under the Contract. Unless otherwise notified by the Principal in writing, the combined limit of this insurance shall be as set out in the Annexure Part A.

The insurance shall be maintained at all times that the vehicles are to be used by the Contractor in connection with the work under the Contract or are on the Site.

The Contractor shall ensure that every subcontractor's vehicles are similarly insured.
The provisions of Clause 21 shall also apply to the insurance to be effected under this clause."

21. Inspection and Provisions of Insurance Policies

Add after Clause 21.6, the following:

"21.7 Miscellaneous Insurance Provisions

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The Contractor shall:

- (a) pay all excesses and deductibles under a policy of insurance effected by the Principal or the Contractor under the Contract, unless the claim includes only loss, damage or claims:
 - (i) for which the Contractor is not responsible under the Contract; or
 - (ii) caused by an Excepted Risk as defined in clause 16.3 not caused or contributed to by the Contractor;
- (b) ensure that it:
 - (i) satisfies itself as to; and
 - (ii) complies strictly with,the terms of any policy of insurance effected under the Contract;
- (c) at its own cost and expense effect any additional insurance it considers necessary in connection with the work under the Contract or the Works;
- (d) to the extent directed by the Superintendent, allow the Principal to make, negotiate and settle any insurance claim in which the Principal is interested;
- (e) ensure that any proceeds received from any insurance claim in which the Principal is interested are paid (in priority to any other payments) to compensate the Principal as fully as possible for any loss, damage, claim or other liability of the Principal covered by the policy; and
- (f) despite any other provision of the Contract, accept as full payment for any reinstatement or replacement of the work under the Contract which is the subject of an insurance claim and does not arise from an Excepted Risk defined in clause 16.3 not caused or contributed to by the Contractor, the amount of insurance proceeds recovered by the Principal or the Contractor in respect of that reinstatement or replacement.”

23. Superintendent

Replace the first paragraph of Clause 23 with the following:

“The Principal shall ensure that at all times there is a Superintendent for the purposes of the Contract. The Principal shall endeavour to ensure that the Superintendent performs reasonably and in good faith its functions under clause 35.5 (assessment of extensions of time, except where otherwise noted in that clause), clause 40.5 (valuation of variations), clause 42.1 (issue of payment schedules), clause 42.5 (issue of the Certificate of Practical Completion), clause 42.8 (issue of the Final Certificate) and in making costs assessments.

The Superintendent may carry out its functions under the Contract (other than those referred to in the paragraph above):

- (a) as agent and representative of the Principal; and
- (b) in accordance with instructions given to it by the Principal (acting in its absolute discretion unless the Contract expressly requires otherwise).”

25. Contractor's Representative

Add after Clause 25, the following:

“The Contractor:

- (a) must ensure the key personnel listed in the Contract are engaged in the provision of the work under the Contract in the respective capacities also set out in Annexure Part A;
- (b) must only replace the key personnel:
 - (i) in circumstances of death, serious illness, change of employment or request by the Superintendent; and
 - (ii) with others (having equivalent skill and experience) approved by the Superintendent.”

27. Site

Add after Clause 27.1, the following clauses:

“27.1A Access only

Despite any other provision of the Contract, the Contractor is to have only access to the Site and:

- (a) references in the Contract to “possession of” the Site shall be read as “access to” the Site;
- (b) the Contractor shall have no right of exclusive occupation of any part of the Site and shall access the Site only in accordance with the directions of the Superintendent.

27.1B Access to Site

The Contractor shall ensure that the Contractor, its employees, its subcontractors and their employees:

- (a) do not enter upon any place notified by the Principal to the Contractor in writing as a place to which the Contractor is not to have access, without the prior written consent of the Principal;
- (b) have completed such safety or other training or induction as the Superintendent from time to time directs before accessing the Site;
- (c) at all times:
 - (i) keep themselves informed as to the requirements of, comply with and not do anything which may place the Principal in breach of laws or legislative requirements applying to the Site;
 - (ii) comply with all procedures, policies or rules adopted from time to time by the Principal in connection with the Site; and
 - (iii) comply with the directions (if any) given to the Contractor by the Principal or the Superintendent at any time in connection with the Site (including access to and use of the Site);
- (d) only access the Site during the hours and on the days provided for in the Contract; and
- (e) ensure the Site is kept safe and secure.

27.1C Access to Adjoining Properties

The Contractor shall:

- (a) at its own cost, obtain all necessary approvals, permissions and consents for any access to or over or use of any adjoining site or property which may be required for execution of the work under the Contract;
- (b) comply with all conditions attaching to such approvals, permissions and consents; and
- (c) indemnify the Principal against:
 - (i) any claim in respect of personal injury or death or loss of, or damage to the Principal's or any other property in respect of the Contractor's access to, or over, or use of any adjoining site or property; and
 - (ii) any claim, action, cost, expense, damages, loss or liability arising from breach of any condition attaching to any approval, permission or consent referred to in paragraph (a).”

Delete the second and third paragraphs of Clause 27.2.

Add after Clause 27.2, the following clauses:

“27.2A Separate Contracts

The Principal shall be entitled to arrange for separate contractors to carry out works (other than the work under the Contract) on the Site on behalf of the Principal (“**Separate Contractors**”) concurrently with the execution by the Contractor of the work under the Contract.

27.2B Separate Contractors

In respect of Separate Contractors:

- (a) the Superintendent shall notify in writing the Contractor of the identity of Separate Contractors;
- (b) the Contractor shall ensure that the work of Separate Contractors is co-ordinated with the work under the Contract as a whole and shall facilitate the execution of the work by Separate Contractors.

The Contractor acknowledges that it shall not be entitled to any claim for an extension of time, adjustment to the Contract Sum or delay costs under clause 36 or otherwise in respect of any delay arising as a result of any failure to co-ordinate the work under the Contract with the work performed by Separate Contractors;

- (c) the Contractor shall be responsible for any damage to the Works caused by an act or default of Separate Contractors to the extent the Contractor has failed to comply with paragraph (b); and
- (d) the Contractor shall make available for use by Separate Contractors all facilities and services which are otherwise provided by the Contractor in connection with the work under the Contract and the Contractor shall co-operate with the Superintendent and Separate Contractors in the use of such facilities.”

27A. Site Meetings

Add after clause 27, the following clauses:

27A. Site meetings

27A.1 Attendance at site meetings

The Contractor shall ensure that it is represented at any project or site meetings required by the Superintendent or Principal (“**Site Meetings**”) to openly discuss all matters relevant to the Works and progress of the work under the Contract which may be convened by the Principal or Superintendent by reasonable notice to the Contractor.

27A.2 Minutes of meeting

Minutes of each Site Meeting may be kept by the Superintendent and issued to the Contractor as soon as possible thereafter. If the Contractor does not agree with the accuracy of the minutes, it shall notify the Principal of the inaccuracy within 48 hours of receipt of the minutes. Failure to so notify, will be deemed acceptance by the Contractor of the minutes as a true and accurate record of the Site Meeting.

27A.3 No direction

Notwithstanding the recording of the minutes of any Site Meeting, no resolution or communication at any Site Meeting (nor minutes recording any resolution or communication) shall constitute a direction as defined in Clause 23 unless and until a separate direction is given to the Contractor by the Superintendent in writing.”

29. Materials, labour and construction plant

Add to the end of clause 29.1, the following:

“The Contractor must ensure all materials, machinery or equipment used on the Site complies with all relevant legislative requirements, Codes of Practice and Australian Standards.

The Contractor shall upon request by the Superintendent, notify the Superintendent in writing of the name and address of the owner of any construction plant used in connection with the work under the Contract and held by the Contractor under an agreement with the owner of the construction plant. The Principal may, in order to avoid seizure by the owner of such construction plant, pay to the owner the amount of any overdue installment or other sums payable under such agreement. In the event of the Principal doing so, the Principal may recover such amount as a debt due from the Contractor.”

29A. Warranty Requirements

Add after clause 29, the following clauses:

29A. WARRANTY REQUIREMENTS

29A.1 Special Warranty Requirements

The Contractor shall deliver to the Principal before Practical Completion deeds of warranties in a form acceptable to the Superintendent:

- (a) from the suppliers or subcontractors;
- (b) in respect of the items or work; and
- (c) for the periods,

set out in the Contract (“**Special Warranties**”).

The Special Warranties must be in the name of each of the Principal, the Site Owner and the Contractor as beneficiaries.

29A.2 Warranties

Without limiting the requirements of Clause 29A.1, the Contractor shall ensure that all warranty entitlements arising from the work under the Contract and the goods and materials incorporated in the Works include the Principal and the Contractor as named beneficiaries. Such warranties shall be in a form approved by the Superintendent and shall be submitted to the Superintendent prior to the issue of the Final Certificate."

29B. Training and Instruction

Add after clause 29A, the following:

"29B. TRAINING AND INSTRUCTION

If the Contractor is required to provide any training or instruction to the Superintendent, the Principal or employees or contractors of the Principal in connection with the Works, the Contractor shall:

- (a) ensure that all training or instruction is:
 - (i) carried out by suitably qualified and skilled persons who are familiar with the operation, use and maintenance of the plant or equipment; and
 - (ii) designed to meet the requirements of the trainee; and
- (b) provide the training or instruction prior to (and as a pre-condition to the achievement of) Practical Completion being achieved."

30. Quality

Add to the end of Clause 30.1, the following:

"Where the Contract or any direction by the Principal or Superintendent:

- (a) nominates or describes (by a proprietary or brand name, model number or other specific means) any material or component to be used in connection with the work under the Contract; or
- (b) nominates or describes the design, manufacturer or place of manufacture for any material, component or sub-assembly to be used in connection with the work under the Contract,

then:

- (I) such nomination or description shall in no way relieve, limit or exclude any of the Contractor's obligations or liabilities under or in connection with the Contract; and
- (II) the Contractor shall obtain the prior consent of the Superintendent to any change to or deviation from such nomination or description."

Delete the second sentence of Clause 30.5.

Add to the end of Clause 30.5 the following clauses:

"In that event the Contract Sum shall be decreased by the greater of the following as assessed by the Superintendent:

- (a) the cost of remedying the material of work valued under Clause 40.5; or
- (b) the resulting decrease in the value of the Works and any other loss which the Principal is likely to suffer, including the likely increase in operational and maintenance costs which shall be incurred by the Principal if it accepts the material or work."

Add to the end of Clause 30 a new Clause 30A, as follows:

"30A Non-conforming Building Products

Terms defined in the *Queensland Building and Construction Commission Act 1991 (Qld) (QBCC Act)* and used in this clause 30A have the same meaning given to them in the QBCC Act.

The Contractor must, in performing the work under the Contract and completing the Works:

- (a) comply with, and cause all its officers, employees, agents and subcontractors to comply with, the obligations set out in Part 6AA of the QBCC Act in relation to non-conforming building products; and
- (b) immediately notify the Principal if it becomes aware, or reasonably suspects, that a product being used, or planned to be used, is a non-conforming building product.

The Contractor must indemnify and hold harmless the Principal from and against any claim or loss in connection with or arising out of (either directly or indirectly) the failure of the Contractor or its officers, employees, agents and subcontractors to comply with the obligations pursuant to this clause 30A, or the obligations under Part 6AA of the QBCC Act.

31. Examination and Testing

Add after Clause 31.8, the following clauses:

“31.9 Access to Superintendent for Testing

The Contractor shall ensure the Superintendent and its agents and employees are allowed access to any place where any part of the Works is situated or any the work under the Contract is being carried out (including at a location other than the Site or the Contractor’s premises), for the purpose of inspection and testing.

“31.10 Results of Tests

A satisfactory inspection or test of any part of the Works or the work under the Contract by the Superintendent or the Principal shall not constitute evidence of the Contractor having satisfactorily complied with the Contract, and shall not prejudice or relieve the Contractor from any of its obligations or liabilities under or in connection with the Contract.”

31A. Commissioning

Add after Clause 31, the following clauses:

“31A. COMMISSIONING

31A.1 Commissioning Program

The Contractor shall:

- (a) prepare and submit to the Superintendent a detailed commissioning program (including commissioning procedures necessary to establish that performance of the Works (or a part thereof) meets the requirements of the Contract) for those parts of the Works described in Annexure Part A (in a form satisfactory to the Superintendent); and
- (b) obtain the Superintendent’s approval in writing to the commissioning program in sufficient time prior to the Date for Practical Completion to enable the commissioning program to be satisfactorily completed prior to the Date for Practical Completion.

31A.2 Commissioning by Contractor Prior to Practical Completion

The Contractor agrees:

- (a) the (successful commissioning of the Works to establish that the performance of the Works (or a part thereof) meets the requirements of the Contract shall comprise tests to be carried out and passed before the Works reach Practical Completion;
- (b) all commissioning shall be carried out in accordance with good engineering practice and shall conform to the requirements of the relevant Australian Standards;
- (c) the Contractor shall ensure that results of all commissioning are recorded and submitted to the Superintendent as and when requested by the Superintendent;
- (d) the Contractor shall give the Superintendent reasonable prior notice of the carrying out of any part of the commissioning required by the commissioning program; and
- (e) the Contractor shall immediately notify the Superintendent if any portion of the Works fails to pass a commissioning requirement and, at the Contractor’s cost, make good that portion and after completion of the remedial work promptly carry out further commissioning of that portion.”

32A. Superintendent may direct working hours

Add after Clause 32, the following:

“32A. Superintendent may direct working hours

Despite clause 32, the Superintendent may at any time direct the Contractor as to different hours and days during which the Contractor may execute the work under the Contract and the Contractor shall not execute the work under the Contract outside those hours or days except in an emergency (in which case the Contractor shall notify the Superintendent in writing of the circumstances as early as possible).

The Superintendent’s direction under this clause shall be taken to be a direction given under Clause 33.1.”

33. Progress and Programming of the Works

Add to the end of Clause 33.1 the following:

"No direction by the Superintendent shall constitute a direction under this Clause unless the direction is in writing and expressly states that it is a direction under this Clause or is deemed to be such a direction pursuant to clause 32A."

Delete the third and final paragraphs of Clause 33.2.

Add to the end of Clause 33.2 the following:

“The Contractor’s construction program shall commence on the Date of Acceptance of Tender and shall:

- (a) incorporate the following criteria:
 - (i) the work under the Contract shall be broken down into activities of sufficient specificity to enable accurate assessment of progress and the effects of delays to be made;
 - (ii) clearly defined critical paths shall be shown;
 - (iii) relationships between activities shall be sufficient in number to clearly indicate the intended sequence of work and shall show all dependencies dictated by constructability and the availability of labour or equipment resources;
 - (iv) off-site procurement activities shall be shown, including but not limited to:
 - (A) preparation, submission and approval of all relevant drawings; and
 - (B) order, manufacture and delivery periods for materials, plant and equipment;
 - (v) deadlines for selections or approvals by the Superintendent or the Principal shall be shown;
 - (vi) the lead times for the supply of all drawings and information relating to significant activities;
 - (vii) approval dates required from Authorities;
 - (viii) turnaround times required for submission and examination of all relevant drawings;
 - (ix) supply times for any essential materials and major items of plant;
 - (x) all on and off Site activities;
 - (xi) testing requirements;
 - (xii) commissioning program
 - (xiii) inspection of the Works, preparation of a defects list and rectification of defects prior to practical completion;
 - (xiv) quality assurance inspections and approvals prior to practical completion; and
 - (xv) dates for placing orders for standard components;
- (b) be revised by the Contractor at the Contractor’s own cost and expense and submitted to the Superintendent at monthly intervals or whenever the Contractor falls 7 days behind the construction program;
- (c) be in an electronic form approved by the Superintendent and issued in hard copy to the Superintendent;
- (d) be in such detail so as to advise the Superintendent of the details specified in this Clause 33;
- (e) as a minimum indicate early start and finish dates and the duration of the Contractor’s float;
- (f) incorporate a separate program for each separable portion of the Works;
- (g) be in sufficient detail to enable the Superintendent to integrate the work of others;
- (h) clearly demonstrate the Contractor’s ability to meet the Date for Practical Completion; and

- (i) indicate all resources, including human resources to be employed on the Contract throughout its duration.

The Contractor shall make available any documentation reasonably requested by the Superintendent relating to the Contractor's construction program or the Contractor's progress of the work under the Contract.

Despite any other provision of this Clause:

- (a) any program prepared or provided by the Contractor shall not be used as a construction program for the purposes of this clause until it has been approved by the Superintendent;
- (b) the Contractor shall not be entitled to any addition to the Contract Sum arising from a direction of the Superintendent under this clause unless the Contractor has notified the Superintendent that the direction will result in the Contractor incurring more cost (together with an estimate of that cost) within 7 days after receipt by the Contractor of the direction and before the Contractor gives effect to the direction;
- (c) the power of the Superintendent to require the Contractor to provide a construction program includes a power to require the provision of an updated construction program whenever the Superintendent requires after a change in the Date for Practical Completion or any circumstances affecting the progress of the work under the Contract;
- (d) the Contractor shall provide a construction program and any updated construction program at its own cost and expense; and
- (f) the construction program must show the dates by which, or the times within which the milestones set out in the Contract are to be carried out or completed.

The receipt, acceptance, review, approval or comment by the Superintendent of a construction program furnished by the Contractor does not:

- (a) relieve the Contractor from its liabilities or obligations, including without limitation the obligation to achieve Practical Completion by the Date for Practical Completion;
- (b) evidence or constitute a direction by the Superintendent to accelerate, disrupt, prolong or vary any, or all, of the Works;
- (c) affect the time for performance of the Principal's or the Superintendent's obligations."

Add after Clause 33.2, the following:

"33.3 Acceleration

Where the Contractor is entitled to an extension of time for Practical Completion under Clause 35.5, the Superintendent may, instead of granting a reasonable extension of time under that Clause, direct the Contractor in writing to accelerate the performance of the work under the Contract so as to overcome the whole or part of the delay which gave rise to the entitlement to an extension of time and the Contractor shall comply with that direction.

If the Superintendent directs the Contractor under this Clause 33.3 to accelerate the performance of the work under the Contract so as to overcome:

- (a) the whole of the delay in question, then the Contractor shall no longer be entitled to any extension of time for that delay; or
- (b) part only of the delay in question, the Contractor shall no longer be entitled to any extension of time for that part of the delay the subject of the Superintendent's direction, but the Superintendent shall grant a reasonable extension of time under Clause 35.5 for the balance of the delay.

No direction by the Superintendent shall constitute a direction under this Clause 33.3 unless it is in writing and expressly states that it is a direction under Clause 33.3.

If compliance with a direction to accelerate given under this Clause 33.3 causes the Contractor to incur more or less cost than otherwise would have been incurred had the direction not been given, the difference shall be valued under Clause 40.5."

34. Suspension

Add to the end of Clause 34.1, the following:

"The Superintendent may also direct the Contractor to suspend the carrying out of the whole or part of the work under the Contract under this clause if required by the Principal for its convenience, for such time as the Superintendent thinks fit."

Add to the end of Clause 34.2, the following:

"The Contractor shall not be entitled to any extension of time in connection with a suspension approved by the Superintendent under this clause."

Replace Clause 34.4 with the following:

"Any cost, expense, loss or damage (including delay and disruption costs) incurred by the Contractor by reason of any suspension under this clause shall be borne by the Contractor but if:

- (a) the suspension is directed by the Superintendent or the Principal; and
- (b) the suspension has been directed by the Superintendent or Principal solely:
 - (i) for the convenience of the Principal; or
 - (ii) because of an act or omission of the Principal, the Superintendent or an employee, consultant or agent of the Principal; and
- (c) the suspension causes the Contractor to incur more or less cost than otherwise would have been incurred but for the suspension,

the difference in cost shall be assessed by the Superintendent and added to or deducted from the Contract Sum.

Clause 36 shall not apply to delay or disruption costs or damages resulting from a suspension under this Clause 34."

35. Times for Commencement and Practical Completion

Delete the first paragraph of Clause 35.5 and replace with the following:

"Within 7 days of it becoming evident to the Contractor that anything, including an act or omission of the Principal, the Superintendent or the Principal's employees, consultants, other contractors or agents, may delay the work under the Contract, the Contractor shall notify the Superintendent in writing with details of the possible delay and the cause."

Replace the following words in the third paragraph of Clause 35.5:

The words "delay occurs" are replaced with the words "commencement of that cause".

Delete subparagraph (a) of Clause 35.5 and replace with the following:

"(a) events occurring on or before the Date for Practical Completion which are beyond the reasonable control of the Contractor (but not including a delay, breach, act or omission by any subcontractor or any of the Contractor's employees) including but not limited to – industrial conditions; inclement weather;"

Add to the end of the penultimate paragraph of Clause 35.5, the following:

"The discretion given by this Clause to the Superintendent is wholly for the benefit of the Principal, and the Superintendent is not required to exercise the discretion for the benefit of the Contractor."

Add to the end of Clause 35.5, the following:

"The Contractor shall not be entitled to an extension of time for any delay in respect of which the Contractor has failed to comply strictly with the notification provisions of Clause 35.5.

Neither a delay caused by any one or more of the causes mentioned in Clauses 35.5(b)(i), 35.5(b)(iii), 35.5(b)(iv) or 35.5(b)(x), nor a failure by the Superintendent to grant an extension of time or a reasonable extension of time under this Clause or to do so within the time stated in this Clause, nor the giving of a direction to accelerate under Clause 33.3 shall:

- (c) set the Date for Practical Completion or any other time at large; or
- (d) render Clause 35.6 unenforceable,

but nothing in this paragraph shall prejudice any right of the Contractor to damages."

Add after Clause 35.5, the following:

"35.5A Reduction of Time

Notwithstanding that the definition of Date for Practical Completion does not expressly contemplate a reduction in the time for achieving Practical Completion, where any direction given by the Superintendent (including any variation) has the effect of reducing the amount of time required by the Contractor to achieve Practical Completion, the Superintendent may give to the Contractor and the Principal a written direction bringing forward the Date for Practical Completion by a reasonable period."

36. Delay or Disruption Costs

Add to the end of Clause 36, the following:

"The Contractor shall not be entitled to claim any delay damages or costs which could reasonably have been avoided by the Contractor.

Except to the extent expressly set out in Clause 36, the Contractor shall not be entitled to claim any costs, expenses, damages or other amounts resulting from any delay or disruption arising from any cause (including without limitation any breach by the Principal)."

37. Defects Liability

Delete the third sentence of the third paragraph and replace with the following sentence:

"Where a direction is given by the Superintendent under this clause, there shall be a separate Defects Liability Period in respect of the rectification work carried out pursuant to the direction of the same duration as the Defects Liability Period stated in Annexure Part A."

40. Variations

Delete the second last paragraph of Clause 40.1

Add to the end of Clause 40.1:

"Where any part of the work under the Contract is omitted, the Principal may carry out the omitted work itself or engage others to perform the omitted work."

Add after Clause 40.5, the following:

"40.6 Notice of Variations

If the Contractor considers that a direction by the Superintendent (including a direction to remedy or re-execute work or material which the Contractor considers complies with the Contract) is a variation even though it was not expressly identified as a variation to the work under the Contract by the Superintendent, then the Contractor must within 14 days of the receipt of the direction, notify the Superintendent of that view identifying the relevant direction and the reasons why the Contractor considers that the direction is a variation.

Within 14 days of receiving such a notice, the Superintendent shall confirm in writing whether or not the direction is a variation to the work under the Contract. If the Superintendent confirms that the direction is a variation to the work under the Contract, the variation will be valued under Clause 40.5.

Unless the Contractor gives the notice required under this Clause and:

- (a) the Superintendent confirms that the direction is a variation to the work under the Contract within 14 days of the Contractor's notice; or
- (b) the Contractor gives a prescribed notice under Clause 46 within 21 days of its first notice under this Clause,

the Contractor may not make a claim against the Principal in respect of the work the subject of the direction whether under the Contract or (insofar as is permitted by law) pursuant to any other principle of law."

42. Payment

Delete any reference to "claim for payment" and replace with "payment claim".

Delete any reference to “claims for payment” and replace with “payment claims”.

Delete any reference to “payment certificate” and replace with “payment schedule”.

Delete any reference to “payment certificates” and replace with “payment schedules”.

Delete the words “14 days” in the first sentence of the second paragraph of Clause 42.1 and replace with “15 Business Days”

Delete the words “within 28 days” in the first sentence of the fourth paragraph of Clause 42.1 and replace with “20 Business Days”

Delete the words “14 days” in the first sentence of the fourth paragraph of Clause 42.1 and replace with “10 Business Days”.

Add to the end of Clause 42.1 the following:

"If the Contractor lodges a payment claim earlier than the times specified by this Clause and/or which does not include all information or evidence required by the Contract, the Superintendent shall not be obliged to issue a payment schedule in respect of the payment claim earlier than would have been the case had the Contractor submitted its payment claim in accordance with the Contract.

Despite the issue of a payment schedule by the Superintendent, the Principal shall not be liable to pay any amount certified which relates to an unliquidated claim for damages or any amount in respect of which it is entitled to a set-off under Clause 42.10.

The Contractor warrants and agrees that ownership of and property in any plant or material incorporated or to be incorporated in the Works shall pass to the Principal upon payment to the Contractor of the amount claimed by the Contractor in respect of that plant or material."

Delete the words “14 days” from the first sentence of Clause 42.8 and replace with “15 Business Days”.

Delete Clause 42.10 and replace with the following:

"42.10 Set Offs by the Principal

Without limiting the Principal's rights under the Contract or otherwise, and notwithstanding the provisions of Clauses 42.1 and 42.8 or the issue of any payment schedule by the Superintendent under those Clauses, the Principal may deduct from any moneys due to the Contractor, including from any retention moneys, security or the proceeds of conversion of any security into money, any debt due from the Contractor to the Principal and any amount to cover any claim which the Principal may have against the Contractor:

- (a) whether or not the debt or claim arises by way of damages, debt, restitution or otherwise; and
- (b) whether or not the factual basis giving rise to the debt or claim arises out of this Contract, any other contract or is independent of any contract.

Nothing in this Clause shall affect the right of the Principal to recover from the Contractor the whole of the debt or claim or any balance that remains owing. This Clause shall survive termination of the Contract."

42.12 GST

(a) In this Clause:

- (1) "GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition Act (whether imposing tax as a duty of customs excise or otherwise) and includes any legislation which is enacted to validate recapture or recoup the tax imposed by any of such Acts;
- (2) "Representative" means a representative member of a GST group to which the relevant supplier belongs; and
- (3) the expressions "adjustment note", "consideration", "GST", "input tax credit", "supply", "tax invoice", "recipient" and "taxable supply" have the meaning given to those expressions in the GST Act.

(b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Contract are exclusive of GST.

- (c) Despite any other provision in this Contract, if GST is imposed on any supply made under this Contract, the recipient must pay to the supplier an amount equal to the GST payable on the taxable supply.
- (d) The recipient must pay the amount referred to in Clause 42.13(c) in addition to and at the same time as payment for the taxable supply is required to be made under this Contract.
- (e) If the amount of GST paid or payable by the supplier on any supply made under this Contract differs from the amount of GST paid by the recipient, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST, then the amount of GST paid by the recipient will be adjusted accordingly by a further payment by the recipient to the supplier or the supplier to the recipient, as the case may be.
- (f) If this Contract requires a party to reimburse or indemnify the other party for any expense, loss or outgoings ("*reimbursable expense*") the amount required to be reimbursed or indemnified by the first party will be the amount of the reimbursable expenses net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense ("*net amount*") PROVIDED THAT should the reimbursement or indemnity be subject to GST, the net amount shall be increased in accordance with Clause 42.13(c).
- (g) A valid tax invoice or adjustment note must be delivered by a supplier to the recipient before the supplier is entitled to payment of an amount under Clause 42.13. The recipient can withhold payment of the amount until the supplier provides a valid tax invoice or adjustment note as appropriate.
- (h) The Principal is authorised to withhold from payments to the Contractor, such amounts as are required under the Pay as You Go (PAYG) system.
- (i) If this Contract requires the calculation of a price by the addition of a percentage margin to another rate or price, the percentage shall be applied to the rate or price exclusive of GST (or where the rate is expressed as being GST inclusive, then less any input tax credit the supplier is entitled to claim in respect of that item).
- (j) In the event that liability for payment of GST in respect of a supply under this Contract is imposed upon a Representative of a supplier this Clause 42.13 shall nonetheless apply and any amounts to be calculated pursuant to Clauses 42.13(c) and 42.13(e) shall be calculated in all respects as if the supplier was liable for the GST imposed on such supply and entitled to input tax credits properly allocated to the making of that supply.

42.13 PAYG Withholding

This clause applies where:

- (a) the Contractor is not registered for GST; or
- (b) the parties are bound by a Voluntary Agreement.

Whether or not the Principal should bind itself to a Voluntary Agreement at any time may be determined by the Principal in its absolute discretion.

Where this clause applies, the Principal shall be entitled to withhold from any payment otherwise due to the Contractor under or in connection with the Contract, tax calculated and to be held in accordance with the PAYG Law.

42.14 Building Industry Fairness (Security of Payment) Act 2017 [BIF]

- (a) This clause applies where:
 - (i) the Contractor has made a claim under the *Building Industry Fairness Act BIF*; and
 - (ii) it is identified on the claim that the particular claim is being made under the BIF.
- (b) A claim made under the BIF shall be administered in accordance with the statute requirements and take precedence over the contractual payment requirements.
- (c) Upon a claim being made by the Contractor under the BIF Council shall reserve the right at its sole and absolute discretion to initiate, prepare and forward to the Contractor a Recipient Created Tax Invoice [RCTI] for that particular claim. The RCTI shall be forwarded to the Contractor at the time of the Payment Schedule being issued in accordance with statute time bars. Payment shall equate to

value reflected on the Payment Schedule and on the RCTI. Should any inconsistency exist between the Payment Schedule and the RCTI the former (Payment Schedule) shall take precedence.

43. Payment of Workers and Subcontractors

Add to the end of the last paragraph of Clause 43, the following:

"For the purposes of this paragraph, documentary evidence may include, without limitation, statutory declarations from workers or subcontractors specified by the Superintendent (in its absolute discretion)."

44. Default or Insolvency

Add a new Clause 44.3A, the following:

"Upon giving a notice under clause 44.3, the Principal may suspend payments to the Contractor until the earlier of:

- i) the date upon which the Contractor shows reasonable cause;
- ii) the date which is 7 days after the last date for showing cause in the notice under clause 44.3.

The Contractor agrees that the Principal may determine in its absolute discretion whether the Contractor has failed to show reasonable cause why the Principal should not exercise a right referred to in clause 34.4."

Delete the following words from the final paragraph of Clause 44.4:

"in respect of the work taken out of the hands of the Contractor"

Add to the end of Clause 44.6, the following:

"In assessing the cost incurred in relation to work taken out of the Contractor's hands, the Superintendent must include the following additional items of cost to the Principal:

- (a) any costs being incurred by the Principal or the Site Owner by reason of its ownership or holding of the Site for any period;
- (b) any costs of funding (including interest); and
- (c) any other costs, losses, expenses or damages,

arising from or in connection with the Contractor's breach."

Add to the end of Clause 44.10 the following paragraphs:

"If the Principal terminated the Contract, it may have recourse to any security or retention moneys provided by the Contractor.

If the Contractor terminates the Contract (whether under Clause 44.9 or otherwise at law), the Contractor will not be entitled to a quantum meruit."

Add after Clause 44.11, the following:

"44.12 Principal May Remedy Contractor's Breach

In addition to any other rights of the Principal, the Principal may perform or have others perform at the Contractor's cost any obligation of the Contractor which the Contractor has failed to perform after reasonable notice from the Principal requiring such performance.

45A. Termination for Convenience

Add after Clause 45, the following:

"45A Termination for Convenience

Notwithstanding any other provision of the Contract, the Principal may, without cause and in its absolute discretion, terminate the Contract at any time, by giving notice in writing to the Contractor. If the Principal terminates the Contract under this Clause, the Contractor shall:

- i. immediately cease the execution of the work under the Contract and (if applicable) commence to demobilise from the Site;
- ii. deliver to the Superintendent documents produced by the Contractor for the purposes of the execution of the work under the Contract;

- iii. be entitled to payment for the work performed by it prior to the date of termination and for its reasonable costs of demobilisation from the Site (if applicable); and
- iv. not be entitled to claim or recover any loss of profit or other consequential loss in respect of the termination."

46. Notification of Claims

Delete Clause 46.1 and replace with the following:

"46.1 Contractor's Prescribed Notice

The Principal shall not be liable upon any claim by the Contractor:

- (a) arising out of or in connection with a breach of the Contract by the Principal;
- (b) arising out of or in connection with the subject matter of the Contract;
- (c) arising out of or in connection with any direction or approval by the Principal or the Superintendent;
- (d) under any provision of the Contract;
- (e) for damages for negligence;
- (f) for damages or for any other remedy under any statute, or
- (g) upon a quantum meruit or for restitution or based on unjust enrichment,

unless within 28 days after the first day upon which the Contractor could reasonably have been aware of the breach or of the entitlement to make the claim, the Contractor has given to the Superintendent the prescribed notice. The prescribed notice is a notice in writing which includes particulars of all of the following:

- (i) the breach, act, omission, direction, approval or circumstance on which the claim is or will be based;
- (ii) the provision of the Contract or other basis for the claim or proposed claim; and
- (iii) the quantum or likely quantum of the claim.

This Clause 46 shall not have any application to:

- (i) any claim for payment to the Contractor of the original Contract Sum;
- (ii) any claim for payment for a variation directed by the Superintendent under Clause 40.1; or
- (iii) any claim for an extension of time for Practical Completion.

Nothing in Clause 46 shall limit the operation or effect of any other notice provision, time bar provision, condition precedent or limitation Clause contained in the Contract."

47. Dispute Resolution

Delete the final paragraph of Clause 47.1.

Replace the words "arbitration or litigation" in the final lines of Clause 47.2 Alternatives 1 and 2, with the word "mediation"

Delete Clause 47.3 and replace with the following:

"47.3 Mediation

Mediation of the dispute shall:

- (a) be conducted in Brisbane in accordance with the rules for mediation of commercial disputes published by the Institute of Arbitrators and Mediators Australia ("IAMA") in force at the Date of Acceptance of Tender;
- (b) be administered by the Queensland Chapter of IAMA;
- (c) be at the cost and expense of the parties equally (except that each party shall pay its own advisers, consultants, legal fees and expenses); and
- (d) take place within 28 days of the date of the written notice referring the dispute to mediation.

Other than to enforce any agreement reached at mediation, the parties shall maintain the confidentiality of mediation.

The mediator shall be the person agreed between the parties, or, if no agreement is reached between the parties within 7 days of the written notice referring the dispute to mediation, the mediator shall be nominated by the President of the Queensland Chapter of IAMA. The fees payable to the mediator (which the parties shall share equally) shall be as agreed between the parties and the mediator, or failing agreement as determined by the President of the Queensland Chapter of IAMA.

If the dispute is not resolved at mediation, either party may commence legal proceedings."

48. Waiver of Conditions

Add to the end of Clause 48, the following:

"Failure by the Principal or by the Superintendent acting on behalf of the Principal at any time and from time to time to enforce or require strict compliance with, or performance of any terms of the Contract will not constitute waiver of, or affect, or impair such terms in any way, nor shall such failure affect the right of the Principal to avail itself at any time of such remedies it may have for any subsequent breach of the terms by the Contractor."